



# **IMPLEMENTATION OF REVISION 7 TO ARTICLE V OF THE FLORIDA CONSTITUTION**

**SUBMITTED TO:  
THE FLORIDA LEGISLATURE**

## **PHASE TWO REPORT**

**SUBMITTED BY:**

**March 11, 2003**

**MGT**  
*of America*

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## ***INDEMNIFICATION CLAUSE***

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## ***INDEMNIFICATION CLAUSE***

The recommendations contained in this report are our best professional opinions. The report is submitted, however, with the understanding that the Legislature will exercise its independent judgment regarding the issues and how those issues will ultimately be resolved.

## ***EXECUTIVE SUMMARY***

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## ***EXECUTIVE SUMMARY***

The Florida Legislature contracted with MGT of America, Inc., to conduct research and provide analytical support regarding implementation of Revision 7 to Article V of the Florida Constitution. The project consists of the following four phases:

Phase 1: Description of the Court System Operations

Phase 2: Recommendations to Increase Efficiency/Reduce Costs of Essential Services

Phase 3: Standardized Staffing and Cost Models

Phase 4: Recommendations on Court-Related Revenues

The Phase 1 report was delivered to the Legislature on January 22, 2003. This report contains the Phase 2 results.

### **Methodology**

As part of Phase 2, MGT performed several tasks in order to develop recommendations for increasing efficiency and/or reducing costs of essential judicial system activities. These tasks included:

- identify best practices—i.e., cost reduction opportunities;
- evaluate centralization or privatization of certain operations; and
- evaluate use of technology.

Most of the information needed to complete these tasks was collected during Phase 1 of the project. During MGT's meetings with key statewide stakeholders, including the Office of State Courts Administrator (OSCA), Florida Prosecuting Attorneys Association, Florida Public Defenders Coordination Office, Florida Association of Court Clerks, and the Justice Administrative Commission, each entity was asked to provide any best practices studies or analyses that they or their members had conducted. They were also asked whether other opportunities might exist to improve efficiency and/or reduce costs

within the judicial system. Additionally, MGT gathered similar information from the five circuits and four counties selected for on-site review during Phase 1.

Information on best practices and cost reduction opportunities was collected from several national-level organizations such as the National Center for State Courts, the American Prosecutors Research Institute, the Bureau of Justice Assistance, and the National Legal Aid and Defender Association. MGT also examined judicial system practices of other states, including Texas, California, New Jersey, Arizona, and Minnesota, with an eye for best practices or cost reduction opportunities. We also relied upon our experience in conducting hundreds of similar studies for a variety of governmental organizations at the state and local levels.

Our efforts to identify and analyze cost reduction opportunities throughout this process were limited by three very significant factors:

- **Highly variable operations.** Wide variations exist in organization structures, staffing levels, management policies and practices, operating procedures, and costs from circuit to circuit and county to county. In addition, the operational information available to MGT was for only five of 20 circuits and four or 67 counties. There is no assurance that the management practices and operating procedures followed by these organizations are representative.
- **Complex procedures.** Operating practices and procedures are very complex, and many are governed by specific statutory requirements, case law, and/or court rules. Extensive research and legal analysis is often needed to determine whether procedural changes can be made and, if so, under what circumstances.
- **Inadequate cost data.** Cost data are incomplete and/or inconsistent and the data that do exist are at a broad programmatic or activity level. The procedural level data needed to conduct cost-benefit analyses of potential improvements does not exist.

Due to these limitations, the cost reduction opportunities presented are broader and more focused on organization and management issues than on detailed operating procedures. However, in many respects these issues are more critical and could have a much more significant impact on judicial system operations and costs.

**Recommendations to Increase Efficiency/Reduce Costs of Essential Judicial System Activities**

Based on our understanding of the Legislature's interest in best practices, our analyses focused on opportunities to improve operating efficiency and/or reduce costs. Less emphasis was placed on opportunities to improve customer service or operating effectiveness. Our recommendations to increase efficiency/reduce costs are organized around the following major elements of the judicial system:

- court-appointed counsel;
- court reporters;
- court interpreters;
- witnesses/evaluators;
- jury management;
- court-based mediation and arbitration;
- masters/hearing officers;
- case management;
- court administration;
- judges and related support;
- state attorneys and public defenders; and
- clerks of court.

The table in the following pages summarizes each of our 48 recommendations, our suggested priority for implementation consideration, and the estimated potential cost reduction for each element. These recommendations in our professional opinion represent opportunities to reduce judicial operations by \$13 million to nearly \$32 million. The primary elements in which the cost improvement potential is particularly relevant are centralization of administrative activities in court administration and standardization of processes in case management. The priorities are based on the suggested implementation period, as follows:

- A. Implement before FY 2004-05—essential to complete before beginning of the fiscal year or can be completed relatively quickly and easily
- B. Implement during FY 2004-05—important to complete as soon as possible but not essential that it be before the beginning of the fiscal year



C. Implement after FY 2004-05—less critical than “A” or “B” recommendations

| No. | COURT-APPOINTED COUNSEL<br>RECOMMENDATIONS  | IMPLEM.<br>PRIORITY |
|-----|---|---------------------|
| 1-1 | Assign responsibility for funding, selecting and managing civil court-appointed counsel to the chief judge in each circuit. This will necessitate legislation. Uniform statewide procedures and guidelines should be established and direct and administrative support costs should be budgeted and recorded separately from other court costs.   | A                   |
| 1-2 | Reduce use of private counsel for workload conflicts by hiring additional public defender staff in circuits where projected demand materially exceeds capacity. Until workload standards can be established, the additional position needs should be predicated upon existing certifications of inadequate resources, pursuant to 27.54(2)(b), F.S., and assurances that the level of demand will continue for the foreseeable future.      | B                   |
| 1-3 | Conduct studies to establish public defender workload standards and funding formula. The studies should include definitions of all major activities performed by each type of position within all public defender offices across the state. A workload-based standard should be developed for each activity using a highly structured and controlled Delphi approach, similar to methodology used for the judicial weighted caseload study. | B                   |
| 1-4 | Continue to use private attorneys to represent indigent defendants in ethical conflict cases but emphasize the need to reduce the number of ethical cases to a minimum. An approach used in at least two circuits to reduce the number of cases declared ethical conflicts was to require personal approval of the public defender in addition to approval by the responsible division head.  | A                   |
| 1-5 | Standardize procedures for qualifying and selecting private attorneys to serve as conflict counsel. Qualification and selection should be the responsibility of the chief judge and public defender. This will require that 925.037, F.S., be revised to eliminate county representation. Competitive RFPs for a fixed price for a fixed number of cases should be used wherever feasible to minimize costs.                                | A                   |
| 1-6 | Continue to assign responsibility for managing conflict counsel to the public defender even though there is merit to assigning responsibility to the trial court judge.   | A                   |
| 1-7 | Establish standard practices for managing conflict counsel including compensation arrangements, contracts, and invoice review and approval. These should be established by a public defender task force and should allow the circuits to refine them to meet unique local requirements.   | A                   |

| No. | COURT-APPOINTED COUNSEL (Continued)<br>RECOMMENDATIONS  | IMPLEM.<br>PRIORITY |
|-----|---|---------------------|
| 1-8 | Establish budgets in each circuit for both workload conflicts and ethical conflicts and monitor actual expenditures and workload against those budgets. Each of the budgets should be allocated by month. JAC should prepare and issue monthly, statewide, comparative reports for all circuits and distribute to each public defender and the Legislature.   | B                   |
| 1-9 | Establish a conflict counsel contingency budget within the Justice Administrative Commission to ensure funds are available to meet unforeseen requirements in any circuit such as high-profile or very complex cases. Initially, approximately five percent of the total expected statewide conflict counsel budget should be set aside for the contingency. A standing committee of public defenders should review any requests for use of these funds. If approved, the allocation should be highlighted on the monthly statewide comparative report. | B                   |
|     | Potential Cost Reduction for Element: 5% to 15% of over \$37 million = \$1.8 to \$5.6 million   |                     |

| No. | COURT REPORTERS<br>RECOMMENDATIONS  | IMPLEM.<br>PRIORITY |
|-----|---|---------------------|
| 2-1 | Implement digital electronic court reporting as soon as possible in all circuits/facilities where the investment is cost justified. Only certain courts in five circuits are currently equipped with this technology. The investment required can be significant but cost savings can offset it in less than five years in many situations. | A                   |
| 2-2 | Ensure that circuits provide only the court reporting services needed to meet minimum legal requirements.   | C                   |
| 2-3 | Determine whether contractor transcription of digital recordings would be cost justified on either a circuit or statewide basis   | A                   |
|     | Potential Cost Reduction for Element: 20% per site where digital electronic reporting is cost justified   |                     |

| No. | COURT INTERPRETERS<br>RECOMMENDATIONS   | IMPLEM.<br>PRIORITY |
|-----|---|---------------------|
| 3-1 | Develop general laws and/or rules to govern court interpretation that address intent, qualifications, ethics, public expense eligibility, and notice and waiver.  | A                   |
| 3-2 | Develop standardized processes for managing and using interpreters including determination of public expense eligibility, in-house vs. contracted, contractor selection, model contract provisions including billing rates, oversight and evaluation, and invoice review and approval. These should be developed by a task force of court representatives and should allow the circuits to refine them to meet local requirements.  | A                   |
| 3-3 | Establish monthly interpreter budgets for each circuit and monitor actual expenditures and workload against those budgets. OSCA should prepare and issue monthly, statewide, comparative reports for all circuits and distribute to each circuit and the Legislature.   | B                   |
| 3-4 | Establish an interpreter contingency budget within OSCA to ensure funds are available to meet unforeseen requirements in any circuit such as high-profile or very complex cases. Initially, approximately five percent of the total expected statewide interpreter budget should be set aside for the contingency. OSCA should review any requests for use of these funds. If approved, the allocation should be highlighted on the monthly statewide comparative report. | B                   |
|     | Potential Cost Reduction for Element: 2% to 5% of \$4 to \$5 million = \$0.2 to \$0.3 million   |                     |

| No. | WITNESSES/EVALUATORS<br>RECOMMENDATIONS   | IMPLEM.<br>PRIORITY |
|-----|---|---------------------|
| 4-1 | Develop a general statute governing the use of witnesses and evaluators whether they are appointed by the court, state attorneys, public defenders, or conflict counsel. The statute should address public expense eligibility, types of witnesses/evaluators and situations where they shall or may be used. | A                   |
| 4-2 | Assign responsibility for funding, managing and coordinating witnesses and evaluators to the entity requesting the service for each case.   | A                   |

| No. | WITNESSES/EVALUATORS (Continued)<br>RECOMMENDATIONS   | IMPLEM.<br>PRIORITY |
|-----|---|---------------------|
| 4-3 | Develop standardized processes for managing and using witnesses and interpreters including public expense eligibility; in-house vs. contracted; contractor selection, management and coordination; fee schedules; model contract provisions; oversight and evaluation; and invoice review and approval.   | A                   |
| 4-4 | Establish monthly witness and evaluator budgets for each entity within each circuit and monitor expenditures and workload against those budgets. OSCA and JAC should prepare and issue monthly, statewide, comparative reports for all circuits and distribute to each circuit and the Legislature.   | B                   |
| 4-5 | Establish witness/evaluator contingency budgets within OSCA and JAC to ensure funds are available to meet unforeseen requirements in any circuit such as high-profile or very complex cases. Initially, approximately five percent of the total expected statewide interpreter budget should be set aside for the contingency. OSCA or a standing committee of public defenders should review any requests for use of these funds. If approved, the allocation should be highlighted on the monthly statewide comparative report. | B                   |
|     | Potential Cost Reduction for Element: 2% to 5% of \$14 to \$20 million = \$0.3 to \$1.0 million   |                     |

| No. | JURY MANAGEMENT<br>RECOMMENDATIONS  | IMPLEM.<br>PRIORITY |
|-----|---|---------------------|
| 5-1 | Streamline the juror qualification and orientation process by moving toward online Web-based processes. Standardized juror qualification forms should be developed and used by the circuits until the online processes are implemented. | C                   |
| 5-2 | Conduct a study to determine the feasibility of a statewide, centralized jury management system supported by one of the computerized programs currently used in other states.   | B                   |
|     | Potential Cost Reduction for Element: Insignificant/to be determined of \$4 to \$5 million = Not applicable   |                     |

| No. | COURT-BASED MEDIATION AND ARBITRATION<br>RECOMMENDATIONS   | IMPLEM.<br>PRIORITY |
|-----|--|---------------------|
| 6-1 | Identify forms of court-based mediation and/or arbitration that warrant state funding based on net savings of judicial time and/or costs.  | A                   |
| 6-2 | Develop standardized processes for managing and using court-based mediation and arbitration including in-house vs. contracted vs. volunteer; contractor selection, management and coordination; fee schedules for service providers; model contract provisions; oversight and evaluation; invoice review and approval; and fee/charge schedules for recipients of services. These should be developed by the Dispute Resolution Center, supported by other entities, as appropriate. | A                   |
| 6-3 | Establish monthly mediation and arbitration budgets for each circuit and monitor expenditures and workload against those budgets. OSCA should prepare and issue monthly, statewide, comparative reports for all circuits and distribute to each circuit court and the Legislature.   | B                   |
|     | Potential Cost Reduction for Element: 5% to 15% of \$6 to \$8 million = \$0.3 to \$1.2 million   |                     |

| No. | MASTERS/HEARING OFFICERS<br>RECOMMENDATIONS  | IMPLEM.<br>PRIORITY |
|-----|--|---------------------|
| 7-1 | Develop general laws that define the authorities, responsibilities and use of masters and hearing officers. The statute should specify the types of cases and activities to be assigned and the masters/hearing officer qualifications.  | A                   |
| 7-2 | Develop standardized processes for managing masters and hearing officers including full-time in-house vs. OPS vs. contracted vs. volunteer; contractor selection, management and coordination; fee schedules for service providers; model contract provisions; oversight and evaluation; and invoice review and approval. These should be developed by the Commission on Trial Court Performance and Accountability with OSCA's staff support. | A                   |
| 7-3 | Use pre-trial conferences for misdemeanor traffic cases, whenever possible, to save the time and expense of a hearing.   | B                   |

| No. | MASTERS/HEARING OFFICERS (Continued)<br>RECOMMENDATIONS   | IMPLEM.<br>PRIORITY |
|-----|---|---------------------|
| 7-4 | Establish monthly master and hearing officer budgets for each circuit and monitor expenditures and workload against those budgets. The budgets should specify full-time in-house staff, OPS and any contractor costs as well as the number of any volunteer F.T.E.s. To determine net budget needs, anticipated funds from the Department of Revenue and/or other grants should also be specified. OSCA should prepare and issue monthly, statewide, comparative reports for all circuits and distribute to each circuit court and the Legislature. | B                   |
|     | Potential Cost Reduction for Element: 1% to 2% of \$6 to \$7 million = \$0.1 to \$0.1 million   |                     |

| No. | CASE MANAGEMENT<br>RECOMMENDATIONS   | IMPLEM.<br>PRIORITY |
|-----|--|---------------------|
| 8-1 | Define specific case management responsibilities and activities applicable to all circuits and counties to minimize the variability in functions and positions currently classified as case management. Differences in the functions and activities performed by court administration vs. court clerks should also be addressed. | A                   |
| 8-2 | Establish workload-based staffing standards and performance/level of service standards for each case management activity defined in Recommendation 8-1. The standards should be developed using a highly structured and controlled Delphi approach, similar to methodology used for the judicial weighted caseload study.        | B                   |
| 8-3 | Establish monthly case management budgets for each circuit and monitor expenditures and workload against those budgets. OSCA should prepare and issue monthly, statewide, comparative reports for all circuits and distribute to each circuit and the Legislature.   | B                   |
| 8-4 | Implement certain operational improvements including calendaring workbench tools, balancing of judicial calendars across all weekdays, and pro se litigant forms, written guidelines, and advice and assistance.   | C                   |
|     | Potential Cost Reduction for Element: 15% to 20% of \$15 to \$20 million = \$2.2 to \$4.0 million  |                     |

| No. | COURT ADMINISTRATION<br>RECOMMENDATIONS   | IMPLEM.<br>PRIORITY |
|-----|---|---------------------|
| 9-1 | Continue to centralize overall responsibility for court administration planning and budgeting in the Trial Courts Budget Commission.  | A                   |
| 9-2 | Centralize responsibility for payroll, purchasing, accounting and risk management in the Office of the State Courts Administrator or a comparable entity within the judicial branch. Consider contracting with counties for payroll, purchasing and accounting assistance.  | A                   |
| 9-3 | Continue to assign responsibility for human resources, training and grants management to the circuits so they are able to provide direct employee access and sensitivity to local requirements. Standardized policy and procedural requirements should be developed to guide local activities.  | A                   |
| 9-4 | Establish workload-based staffing standards for each court administration activity performed in the circuits. The studies should include definitions of all major administrative activities performed by each type of position within court administration. The standards should be developed using a highly structured and controlled Delphi approach, similar to methodology used for the judicial weighted caseload study. | C                   |
| 9-5 | Establish monthly court administration budgets for each circuit and monitor expenditures and workload against those budgets. OSCA should prepare and issue monthly, statewide, comparative reports for all circuits and distribute to each circuit and the Legislature.   | B                   |
|     | Potential Cost Reduction for Element: 10% to 15% of \$25 to \$30 million = \$2.5 to \$4.5 million   |                     |



| No.  | JUDGES AND RELATED SUPPORT<br>RECOMMENDATIONS   | IMPLEM.<br>PRIORITY |
|------|---|---------------------|
| 10-1 | Provide legal services for each circuit through staff attorneys or through a contract with county legal staff. The general counsel staffs provided in three circuits by the counties should not be funded by the state. | A                   |
| 10-2 | Establish rules and/or guidelines regarding the types of cases senior judges should adjudicate.   | C                   |
|      | Potential Cost Reduction for Element: Insignificant percentage of \$193 million = Insignificant   |                     |

| No.  | STATE ATTORNEYS AND PUBLIC DEFENDERS<br>RECOMMENDATIONS   | IMPLEM.<br>PRIORITY |
|------|---|---------------------|
| 11-1 | Continue to centralize administrative responsibility for budgeting, payroll, accounting and risk management in the Justice Administrative Commission. Consider contracting with counties to assist with certain payroll, purchasing and accounting duties.  | A                   |
| 11-2 | Continue to assign responsibility for human resources, training, and grants management to the circuits so they are able to provide direct employee access and sensitivity to local requirements. Standardized policy and procedural requirements should be developed by a task force of state attorneys and public defenders to guide local activities. | A                   |
| 11-3 | Circuits/counties with state prisons should develop agreements with the Department of Corrections that authorize DOC to administratively process minor inmate offenses.   | B                   |
| 11-4 | Minimize the time between “first appearance” and arraignment by assigning certain personnel to the county jails to expedite processing.   | B                   |
|      | Potential Cost Reduction for Element: Insignificant percentage of \$434 million = Insignificant   |                     |

| No.  | CLERKS OF COURT<br>RECOMMENDATIONS  | IMPLEM.<br>PRIORITY |
|------|---|---------------------|
| 12-1 | Identify and resolve any differences between the responsibility and activity definitions developed by FACC and those to be developed by OSCA.                                   | A                   |
| 12-2 | Develop a strategy and action plan for conforming court clerk operations to the defined responsibilities and functions.   | A                   |
| 12-3 | Develop and implement more efficient, "customer-friendly" processes for the payment of fines using credit cards and intelligent voice recording or Internet Web site processes. | C                   |
|      | Potential Cost Reduction for Element: 2% to 5% of \$300 million = \$6.0 to \$15.0 million   |                     |

|                                       |                                 |
|---------------------------------------|---------------------------------|
| <b>TOTAL POTENTIAL COST REDUCTION</b> | <b>\$13.4 TO \$31.7 Million</b> |
|---------------------------------------|---------------------------------|

**Centralization/Privatization**

As part of Phase 2, MGT looked at the possibility of centralizing or privatizing certain support services in order to increase efficiency of operations and/or reduce costs. Centralization of contingency budgets for several elements, including court interpreters, witnesses/evaluators, and conflict counsel were recommended for centralization within statewide entities such as OSCA or JAC. In some cases, inadequate data required that further studies be conducted to determine the feasibility of statewide centralization. For instance, further study is recommended to determine whether contractor transcription of digital recordings would be cost effective on a circuit or statewide basis, and to determine the feasibility of a statewide, centralized jury management system. In other cases, centralization in a state-level entity was recommended, including for services such as court administration planning, budgeting, payroll, purchasing, accounting, and risk management. Certain state attorney and public defender administrative functions—budgeting, payroll, accounting, and risk management—were recommended for continued centralization in the JAC.

**Information Technology**

In addition to the information gathered during the Phase 1 site visits to selected counties/circuits, MGT collected technology-related information from the selected counties/circuits through interviews and site visits. Further, representatives from Palm Beach County and the 14<sup>th</sup> Circuit were contacted to gain information relative to their existing information technology systems.

MGT technology specialists also met with statewide stakeholders suggested by the Legislature, including the Florida Association of Court Clerks, OSCA, the Florida Department of Law Enforcement, the Florida Public Defender Association, the Florida

Prosecuting Attorneys Association, the Auditor General, and the Trial Court Technology Commission, to gain their perspective and input.

Through this process, MGT found that virtually every form of information technology, from the old to the modern, is in use somewhere within the Florida judicial system. The technology ranges from basic office-support functions to fairly sophisticated processes that integrate several systems to move court-related information rapidly and accurately. Organizations providing technology support to the courts include counties, clerks of court, the Supreme Court (including OSCA, the Florida Courts Technology Commission, and the Trial Court Technology Commission), the State Technology Office, and the Florida Association of Court Clerks.

MGT additionally found that information technology systems in Florida's judicial system:

- are disintegrated, nonstandard, and nonuniform;
- suffer from a lack of technical consistency;
- show disparity among counties with respect to funding computer support; and
- are costly due to inefficiencies directly attributable to inadequate information technology support, including rescheduling of court cases due to system and/or process failures, use of older technologies, and duplicative data entry.

Each of our five recommendations relating to information technology is included in the table on the following page, along with our suggested priority for implementation consideration. The priorities are based on the suggested implementation period described above.

| No.  | INFORMATION TECHNOLOGY<br>RECOMMENDATIONS  | IMPLEM.<br>PRIORITY |
|------|--|---------------------|
| 13-1 | Establish a plan for statewide governance of the information technology infrastructure used by the state judicial system that would allow stakeholders to operate within the context of statewide vision. The Supreme Court, through the Florida Courts Technology Commission, appears to be well positioned to assume this responsibility, with the involvement of state attorneys, public defenders, court clerks, and the Legislature.  | A                   |
| 13-2 | Due to problems inherent in a technology funding model resulting from the bifurcation of responsibilities and funding, the state should provide state funding of the court technology infrastructure <i>or</i> abandon goals and opportunities feasible only through an integrated, statewide court technology system.   | B                   |
| 13-3 | Develop a methodology for implementing statewide court information requirements that will ensure the cost and time required to implement the requirements are known.   | A                   |
| 13-4 | Review existing court information reporting requirements and identify and report to the Legislature any such requirements that are particularly problematic or inadequately funded. A committee similar to the Trial Court Technology Commission, composed of representatives from the clerks of court, OSCA, state attorneys, public defenders, and the Florida Department of Law Enforcement, should investigate and report deficiencies associated with reporting to the House and Senate committees responsible for judicial appropriations. | A                   |
| 13-5 | Establish a plan for continuously improving the efficiency and effectiveness of judicial system operations through information technology. As an interim step, statewide information reporting necessary to satisfy the needs of the Legislature, the Supreme Court, public defenders, and state attorneys should be defined. Judicial circuits, counties, and clerks should be asked to then determine how to best make the data available in the desired format.   | B                   |

## ***1.0 INTRODUCTION***

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## **1.0 INTRODUCTION**

The Florida Legislature issued a request for proposals to conduct research and provide analytical and other support to the Legislature regarding the implementation of Revision 7 to Article V of the Florida Constitution. MGT of America, Inc., was the successful bidder and was issued a contract executed by the presiding officers of the Legislature. MGT was engaged to complete the first four of five project phases, as follows:

Phase 1: Description of the Court System Operations

Phase 2: Recommendations to Increase Efficiency/Reduce Costs of Essential Services

Phase 3: Standardized Staffing and Cost Models

Phase 4: Recommendations on Court-Related Revenue

The Phase 1 report was delivered to the Legislature on January 22, 2003. This report contains the Phase 2 engagement results.

### **1.1 Project Background**

#### **Article V**

Article V of the Florida Constitution provides for the judicial branch of state government, including its structure, functions, responsibilities, and governance. Significant changes were made to Article V in 1972, when Florida voters approved a major court restructuring to provide for a more unified and cohesive trial court system. The 1972 amendment designated funding responsibilities of the counties, the state, and court users. Over time, as the Office of Program Policy Analysis and Government Accountability (OPPAGA) reported, “State and county governments disagreed on how much each should contribute; county governments believed that the state should

assume a larger share of the cost that occurred.”<sup>1</sup> According to the Florida Association of Counties, to this end, after “20 years of unsuccessful pleading with the Legislature to assume more of the costs of its court system, Florida county leaders were compelled to pursue an amendment to the state constitution.”<sup>2</sup> This amendment, referred to as Revision 7, was passed in 1998 and assigns specific cost responsibilities to the state. It is to be fully implemented by 2004.

### **Revision 7**

As noted above, Revision 7 to Article V of the Constitution was approved by Florida’s voters in 1998. The amendment language relevant to funding is contained in Section 14. In addition to providing for continuing state appropriations for the salaries of justices and judges, Section 14 generally provides that:

- funding for the state courts system, state attorneys’ offices, public defenders’ offices, and court-appointed counsel are to be provided from state revenues;
- funding for the offices of the clerks of the circuit and county courts performing court-related functions . . . is to be provided by adequate and appropriate filing fees for judicial proceedings and service charges and costs for performing court-related functions as required by law. However, if certain fees cannot be levied because doing so would bar access to the courts, the state is required to provide funds to the clerks to cover resulting revenue shortfalls; and
- funding requirements of the county or municipality are to include communications services, existing radio systems, existing multiagency criminal justice information systems, and the cost of construction or lease, maintenance, utilities, and security of facilities for the trial courts, public defenders’ offices, state attorneys’ offices, and the offices of the clerks of the circuit and county courts performing court-related functions. Counties are also required to pay reasonable and necessary salaries and costs and expenses of the state courts system to meet local requirements as determined by law.

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<sup>1</sup> OPPAGA, “Many Article V Trial Courts Funding Issues Still Need to be Resolved.” *OPPAGA Information Brief*, Report No. 01-54, November 2001.

<sup>2</sup> Florida Association of Counties, “Article V/Revision 7: A Briefing for County Commissioners.” January 2001.



**Chapter 2000-237, Laws of Florida**

To implement the provisions of Revision 7, the 2000 Legislature passed CS/SB 1212, which was adopted as Chapter 2000-237, Laws of Florida. Section 1 of the bill describes the state's role in providing financial support to various entities as follows:

- State Courts System – to include the essential elements of the Supreme Court, district courts of appeal, circuit courts, county courts, and essential supports thereto.
- Offices of the Public Defenders and State Attorneys – to include those essential elements of the 20 state attorneys' and public defenders' offices as determined by general law.
- Court-appointed counsel – to include counsel appointed to ensure due process in criminal and civil proceedings in accordance with state and federal constitutional guarantees.

In addition, in describing funding requirements, the bill directs that:

- The offices of the clerks of the circuit and county courts are to provide court-related functions by charging adequate and appropriate filing fees for judicial proceedings and service charges and costs for performing court-related functions.
- County funding requirements are outlined pursuant to those itemized in Revision 7. The legislation provides for continuing funding responsibilities of the counties for existing elements of the state courts system, state attorneys' offices, public defenders' offices, court-appointed counsel, and the offices of the clerks of the circuit and county courts performing court-related functions, consistent with current law and practice until the Legislature expressly assumes the responsibility for funding those elements. Counties are required to fund the cost of communications services, existing radio systems, existing multiagency criminal justice information systems, and the cost of construction or lease, maintenance, utilities and security of facilities for the circuit courts and county courts, public defenders' offices, state attorneys' offices, and the offices of the clerks of the circuit and county courts.
- The Legislature is not obligated to fund current programs in the future if the programs are not designated as an essential element of the system as part of the implementation of Revision 7.

## **1.2 Phase 2 Objectives and Methodology**

The overall goal of Phase 2 is to develop recommendations for increasing efficiency and/or reducing the costs of essential judicial system activities. The following tasks were performed to meet this goal:

- identify best practices—i.e., cost reduction opportunities;
- evaluate use of technology;
- evaluate centralization or privatization of certain operations;
- develop recommendations; and
- prepare and submit Phase 2 report.

Most of the information needed to complete these tasks was collected during Phase 1 of the project. During MGT's meetings with key statewide stakeholders, each was asked to provide any best practices studies or analyses that they or their members had conducted. They were also asked during the interviews whether other opportunities might exist to improve efficiency and/or reduce costs within the judicial system. The organizations queried were:

- Office of the State Courts Administrator;
- Florida Prosecuting Attorneys Association;
- Florida Public Defenders Coordination Office;
- Florida Association of Court Clerks;
- Florida Association of Counties;
- Office of Program Policy Analysis and Government Accountability;
- Office of Statewide Prosecutor;
- Florida Supreme Court;
- Legislative Committee on Intergovernmental Relations;
- Auditor General's Office;
- Florida Comptroller;
- Justice Administrative Commission;
- The Florida Bar and the Florida Bar Foundation;
- Florida Sheriffs Association;
- Trial Court Budget Commission; and
- Florida Department of Law Enforcement.

Key officials in each of the five circuits and four counties selected for on-site review during Phase 1 were also asked to provide documents and/or opinions regarding best practices and opportunities to improve efficiency and/or reduce costs within the

judicial system. The key officials, or their representative, interviewed during the site visits to each of the sample circuits/counties included:

- chief judge/court administrator;
- state attorney;
- public defender;
- clerk of court;
- county administrator/finance director; and
- circuit/county chief technology officer.

MGT collected and reviewed information on best practices and cost reduction opportunities from several national-level organizations, including:

- the National Center for State Courts;
- the American Prosecutors Research Institute;
- the U.S. Department of Justice, Bureau of Justice Assistance;
- the American Bar Association;
- the National Court Reporters Association;
- the National Association for Court Management;
- the National District Attorneys Association;
- the National Study Commission on Defense Services; and
- the National Legal Aid and Defender Association.

In addition to gathering information from national level organizations, MGT examined judicial system practices of other states, including Texas, California, New Jersey, Arizona, Washington, Ohio, and Minnesota, with an eye for best practices or cost reduction opportunities. Several of these states have released manuals on best practices and reports on standards for delivery of court services and public defense, and some have centralized or regionalized some level of support services.

To assess judicial system technology, MGT's specialists conducted their own interviews with selected circuit/county officials as well as with the following state-level organizations:

- State Technology Office;
- Florida Department of Law Enforcement;
- Office of the State Courts Administrator;
- Florida Public Defenders Coordination Office;
- Florida Association of Court Clerks; and
- Justice Administrative Commission.

MGT reviewed and analyzed the information and documents collected from county, circuit, state, and national organizations to identify improvement opportunities. We also relied upon our experience in conducting hundreds of similar studies for a variety of governmental organizations at the state and local levels. Based on our understanding of the Legislature's interest in best practices, our analyses focused on opportunities to improve operating efficiency and/or to reduce costs. Less emphasis was placed on opportunities to improve customer service or operating effectiveness.

Our efforts to identify and analyze cost reduction opportunities were limited by three very significant factors:

**1. Highly variable operations**

Wide variations exist in organization structures, staffing levels, management policies and practices, operating procedures, and costs from circuit to circuit and from county to county. These are due to differences in the availability of local funding, population size and demographics, land areas, socioeconomic factors, historical practices, local preferences, existing information technology capabilities, etc. In addition, the operational information available to MGT was for only five of 20 circuits and four of 67 counties. There is no assurance that the management practices and operating procedures followed by these organizations are representative.

**2. Complex procedures**

Operating practices and procedures are very complex. Many are governed by specific statutory requirements, caselaw and/or court rules. Extensive research and legal analysis is often needed to determine whether procedural changes can be made and, if so, under what circumstances.

**3. Inadequate cost data**

Cost data are incomplete and/or inconsistent and the data that do exist are at a broad programmatic or activity level. To conduct cost-benefit analyses of potential improvements, data at the procedural level is needed. This information, however, does not exist.

Due to these limitations, the cost reduction opportunities presented in the following report chapter are broader and are focused more on organization and management issues than on detailed operating procedures. In many respects, however, these issues are more critical and could have a much more significant impact on judicial system operations and costs.

**2.0 RECOMMENDATIONS TO  
INCREASE EFFICIENCY/  
REDUCE COSTS OF  
ESSENTIAL JUDICIAL  
SYSTEM ACTIVITES**

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## **2.0 RECOMMENDATIONS TO INCREASE EFFICIENCY/REDUCE COSTS OF ESSENTIAL JUDICIAL SYSTEM ACTIVITIES**

In this chapter, we describe opportunities that have been identified for reducing the cost of the Florida Judicial System. These opportunities are organized around the following major judicial system cost elements:

- court-appointed counsel;
- court reporters;
- court interpreters;
- witnesses/evaluators;
- jury management;
- court-based mediation and arbitration;
- masters/hearing officers;
- case management;
- court administration;
- judges and related support;
- state attorneys and public defenders; and
- clerks of court.

For each element addressed in this chapter, the following information is provided:

- a detailed definition and/or description of the element;
- a discussion of variations in program delivery across the state;
- input from statewide stakeholders, including any identified positions taken by stakeholder groups;
- identified potential national best practices;
- identified practices of other states; and
- recommendations, including a discussion of options considered by MGT.

### **2.1 Court-Appointed Counsel**

#### **2.1.1 Definition/Description**

Court-appointed counsel have been classified by MGT into two categories:

Criminal court-appointed counsel, which includes:

- A. private attorneys assigned by the court to handle cases where the defendant is indigent and cannot be represented by the public defender due to ethical conflicts;
- B. private attorneys assigned by the court to handle cases where the defendant is indigent and cannot be represented by the public defender due to excessive caseload; and

Civil court-appointed counsel, which includes private attorneys appointed to handle cases in which counsel for an indigent is legally required but not necessarily within the purview of the public defender. Examples of this would be representation of indigent parents in dependency cases and Children and Families in Need of Services cases. These cases are not required to be defended by the public defender, pursuant to 27.51, F.S. (duties of public defender), which is attached in Appendix A1.

Counties currently fund all court-appointed counsel costs. The only UCA codes related to conflict counsel are defined to include only case-specific ethical conflicts. Expenditures of approximately \$37 million were recorded to these codes for Fiscal Year (FY) 2000. Workload conflicts may be recorded under the public defender administration codes but the amounts cannot be determined. It is not clear where dependency case representation expenditures were recorded.

### **2.1.2 Program Delivery Variations**

Utilization of court-appointed counsel differs from circuit to circuit, but public defenders and courts in all circuits are bound by certain ethical requirements that determine the baseline need for counsel. Frequency of use depends on myriad factors, including a circuit's indigent population, crime rate, and the level of staffing of the public defender's office. For instance, Miami-Dade (11<sup>th</sup> Circuit), which is the largest circuit in the state, currently has 82 county-funded attorneys on staff who are supervised by the public defender but are officially classified as "conflict" attorneys. These attorneys are provided by the county as a result of a certification of inadequate resources, pursuant to 27.54(2)(b), F.S., which states that counties are authorized to provide funding for "legal and support staff to be supervised by the public defender upon certification by the public defender that inadequate resources will result in withdrawal from current cases or inability to accept additional appointments." On the opposite end of the spectrum are smaller circuits, such as the Third Circuit, in which the public defender has represented a



significant portion of the population, resulting in a relatively frequent occurrence of ethical conflicts. In an attempt to manage costs, this circuit adheres to the Florida Public Defender Association Ethical Guidelines for Conflict, which is attached in Appendix A2. All requests for conflicts are submitted to the division chiefs, who analyze the situation and approve appointment on a case-by-case basis.

Current payment models for court-appointed counsel used throughout the state include a flat rate by type of case and an hourly rate. In some circuits, the public defender oversees lists of attorneys who are qualified and willing to be appointed to conflict cases and appoints attorneys on a rotating or random basis. In other circuits, the court administrator's office maintains these lists and appoints the attorneys as needed.

Actual and per capita costs per county and circuit for public defender ethical conflicts, as reported by counties in the FY2000 audited annual financial reports, are included below as Exhibit 2-1.

**EXHIBIT 2-1  
ACTUAL AND PER CAPITA COSTS BY COUNTY AND CIRCUIT, PUBLIC  
DEFENDER ETHICAL CONFLICTS, FY2000**

| Circuit &<br>Counties |                      | Public<br>Defender<br>Conflict costs* | Population     | Costs per<br>capita |
|-----------------------|----------------------|---------------------------------------|----------------|---------------------|
| <b>1</b>              | Escambia             | \$1,059,220                           | 294,410        | \$3.60              |
|                       | Okaloosa             | \$341,155                             | 170,498        | \$2.00              |
|                       | Santa Rosa           | \$19,455                              | 117,743        | \$0.17              |
|                       | Walton               | \$84,219                              | 40,601         | \$2.07              |
|                       | <b>Circuit Total</b> | <b>\$1,504,049</b>                    | <b>623,252</b> | <b>\$2.41</b>       |
| <b>2</b>              | Franklin             | \$108,800                             | 11,057         | \$9.84              |
|                       | Gadsden              | \$292,588                             | 45,087         | \$6.49              |
|                       | Jefferson            | \$59,068                              | 12,902         | \$4.58              |
|                       | Leon                 | \$738,606                             | 239,452        | \$3.08              |
|                       | Liberty              | \$9,781                               | 7,021          | \$1.39              |
|                       | Wakulla              | \$225,779                             | 22,863         | \$9.88              |
|                       | <b>Circuit Total</b> | <b>\$1,434,622</b>                    | <b>338,382</b> | <b>\$4.24</b>       |
| <b>3</b>              | Columbia             | \$0                                   | 56,513         | \$0.00              |
|                       | Dixie                | \$0                                   | 13,827         | \$0.00              |
|                       | Hamilton             | \$0                                   | 13,327         | \$0.00              |
|                       | Lafayette            | \$0                                   | 7,022          | \$0.00              |
|                       | Madison              | \$10,262                              | 18,733         | \$0.55              |
|                       | Suwannee             | \$0                                   | 34,844         | \$0.00              |
|                       | Taylor               | \$0                                   | 19,256         | \$0.00              |
|                       | <b>Circuit Total</b> | <b>\$10,262</b>                       | <b>163,522</b> | <b>\$0.06</b>       |
| <b>4</b>              | Clay                 | \$0                                   | 140,814        | \$0.00              |
|                       | Duval                | \$0                                   | 778,879        | \$0.00              |
|                       | Nassau               | \$0                                   | 57,663         | \$0.00              |
|                       | <b>Circuit Total</b> | <b>\$0</b>                            | <b>977,356</b> | <b>\$0.00</b>       |

**EXHIBIT 2-1 (Continued)**  
**ACTUAL AND PER CAPITA COSTS BY COUNTY AND CIRCUIT, PUBLIC  
DEFENDER ETHICAL CONFLICTS, FY2000**

| <b>Circuit &amp;<br/>Counties</b> | <b>Public<br/>Defender<br/>Conflict costs*</b> | <b>Population</b> | <b>Costs per<br/>capita</b> |
|-----------------------------------|--|-------------------|-----------------------------|
| <b>5</b> Citrus                   | \$132,690                                      | 118,085           | \$1.12                      |
| Hernando                          | \$175,493                                      | 130,802           | \$1.34                      |
| Lake                              | \$106,091                                      | 210,528           | \$0.50                      |
| Marion                            | \$668,829                                      | 258,916           | \$2.58                      |
| Sumter                            | \$63,409                                       | 53,345            | \$1.19                      |
| <b>Circuit Total</b>              | <b>\$1,146,512</b>                             | <b>771,676</b>    | <b>\$1.49</b>               |
| <b>6</b> Pasco                    | \$357,781                                      | 344,765           | \$1.04                      |
| Pinellas                          | \$662,617                                      | 921,482           | \$0.72                      |
| <b>Circuit Total</b>              | <b>\$1,020,398</b>                             | <b>1,266,247</b>  | <b>\$0.81</b>               |
| <b>7</b> Flagler                  | \$17,316                                       | 49,832            | \$0.35                      |
| Putnam                            | \$104,537                                      | 70,423            | \$1.48                      |
| St. Johns                         | \$275,866                                      | 123,135           | \$2.24                      |
| Volusia                           | \$661,365                                      | 443,343           | \$1.49                      |
| <b>Circuit Total</b>              | <b>\$1,059,084</b>                             | <b>686,733</b>    | <b>\$1.54</b>               |
| <b>8</b> Alachua                  | \$1,162,664                                    | 217,955           | \$5.33                      |
| Baker                             | \$59,861                                       | 22,259            | \$2.69                      |
| Bradford                          | \$163,638                                      | 26,088            | \$6.27                      |
| Gilchrist                         | \$19,589                                       | 14,437            | \$1.36                      |
| Levy                              | \$148,687                                      | 34,450            | \$4.32                      |
| Union                             | \$37,910                                       | 13,442            | \$2.82                      |
| <b>Circuit Total</b>              | <b>\$1,592,349</b>                             | <b>328,631</b>    | <b>\$4.85</b>               |
| <b>9</b> Orange                   | \$6,290,172                                    | 896,344           | \$7.02                      |
| Osceola                           | \$700,771                                      | 172,493           | \$4.06                      |
| <b>Circuit Total</b>              | <b>\$6,990,943</b>                             | <b>1,068,837</b>  | <b>\$6.54</b>               |
| <b>10</b> Hardee                  | \$133,846                                      | 26,938            | \$4.97                      |
| Highlands                         | \$156,832                                      | 87,366            | \$1.80                      |
| Polk                              | \$1,062,534                                    | 483,924           | \$2.20                      |
| <b>Circuit Total</b>              | <b>\$1,353,212</b>                             | <b>598,228</b>    | <b>\$2.26</b>               |
| <b>11</b> Miami-Dade              | \$8,940,973                                    | 2,253,362         | \$3.97                      |
| <b>Circuit Total</b>              | <b>\$8,940,973</b>                             | <b>2,253,362</b>  | <b>\$3.97</b>               |
| <b>12</b> DeSoto                  | \$125,749                                      | 32,209            | \$3.90                      |
| Manatee                           | \$378,920                                      | 264,002           | \$1.44                      |
| Sarasota                          | \$315,066                                      | 325,957           | \$0.97                      |
| <b>Circuit Total</b>              | <b>\$819,735</b>                               | <b>622,168</b>    | <b>\$1.32</b>               |
| <b>13</b> Hillsborough            | \$1,052,013                                    | 998,948           | \$1.05                      |
| <b>Circuit Total</b>              | <b>\$1,052,013</b>                             | <b>998,948</b>    | <b>\$1.05</b>               |

**EXHIBIT 2-1 (Continued)**

**ACTUAL AND PER CAPITA COSTS BY COUNTY AND CIRCUIT, PUBLIC  
DEFENDER ETHICAL CONFLICTS, FY2000**

| <b>Circuit &amp;<br/>Counties</b> | <b>Public<br/>Defender<br/>Conflict costs*</b> | <b>Population</b> | <b>Costs per<br/>capita</b> |
|-----------------------------------|--|-------------------|-----------------------------|
| <b>14</b> Bay                     | \$137,540                                      | 148,217           | \$0.93                      |
| Calhoun                           | \$9,206  | 13,017            | \$0.71                      |
| Gulf                              | \$36,861                                       | 13,332            | \$2.76                      |
| Holmes                            | \$0  | 18,564            | \$0.00                      |
| Jackson                           | \$9,207  | 46,755            | \$0.20                      |
| Washington                        | \$9,879  | 20,973            | \$0.47                      |
| <b>Circuit Total</b>              | <b>\$202,693</b>                               | <b>260,858</b>    | <b>\$0.78</b>               |
| <b>15</b> Palm Beach              | \$0  | 1,131,184         | \$0.00                      |
| <b>Circuit Total</b>              | <b>\$0</b>                                     | <b>1,131,184</b>  | <b>\$0.00</b>               |
| <b>16</b> Monroe                  | \$237,617                                      | 79,589            | \$2.99                      |
| <b>Circuit Total</b>              | <b>\$237,617</b>                               | <b>79,589</b>     | <b>\$2.99</b>               |
| <b>17</b> Broward                 | \$5,848,000                                    | 1,623,018         | \$3.60                      |
| <b>Circuit Total</b>              | <b>\$5,848,000</b>                             | <b>1,623,018</b>  | <b>\$3.60</b>               |
| <b>18</b> Brevard                 | \$507,826                                      | 476,230           | \$1.07                      |
| Seminole                          | \$971,621                                      | 365,196           | \$2.66                      |
| <b>Circuit Total</b>              | <b>\$1,479,447</b>                             | <b>841,426</b>    | <b>\$1.76</b>               |
| <b>19</b> Indian River            | \$248,452                                      | 112,947           | \$2.20                      |
| Martin                            | \$272,261                                      | 126,731           | \$2.15                      |
| Okeechobee                        | \$319,204                                      | 35,910            | \$8.89                      |
| St. Lucie                         | \$810,739                                      | 192,695           | \$4.21                      |
| <b>Circuit Total</b>              | <b>\$1,650,656</b>                             | <b>468,283</b>    | <b>\$3.52</b>               |
| <b>20</b> Charlotte               | \$337,587                                      | 141,627           | \$2.38                      |
| Collier                           | \$129,328                                      | 251,377           | \$0.51                      |
| Glades                            | \$0  | 10,576            | \$0.00                      |
| Hendry                            | \$98,951                                       | 36,210            | \$2.73                      |
| Lee                               | \$382,809                                      | 440,888           | \$0.87                      |
| <b>Circuit Total</b>              | <b>\$948,675</b>                               | <b>880,678</b>    | <b>\$1.08</b>               |
| <b>Grand Total</b>                | <b>\$37,291,240</b>                            | <b>15,982,378</b> | <b>\$2.33</b>               |

Source: FY2000 audited annual financial reports.

\* A report of \$0 does not necessarily mean a county spent no money on Public Defender Conflict Counsel. Rather, the county may not have reported these costs through the annual financial report.

### **2.1.3 Stakeholder Entity Input**

In August 2002, the Florida Public Defender Association (FPDA) published two position papers on conflict representation – one specifically on excessive caseload conflicts and the other on conflict representation in general. These are attached as Appendices A3 and A4. Positions the FPDA advocated in the papers include:

- Public defenders should remain chief administrators of indigent criminal defense services in their circuits;
- Excessive caseload conflicts could be eliminated through adequate statewide funding of the public defenders;
- The ethical requirement to withdraw from ethical conflict cases must not be compromised;
- The private bar should retain a meaningful role in conflict representation;
- The Legislature should fund the development of a realistic case counting and case weighting system, and fund public defenders in accordance with the funding formula developed;
- The Florida Public Defender Association should be authorized to develop statewide excessive caseload guidelines; and
- New public defender positions should be funded to coincide with the creation of new judgeships.

The FPDA spoke out against several proposed models for handling conflict representation, including a statewide conflict office in which state-paid government attorneys provide conflict representation, and a cross-circuit system for conflict representation, arguing both options incorrectly remove the private bar from the conflict equation. Exhibit 2-2 depicts ethical conflict cases in the state as a percentage of total assigned public defense cases.

**EXHIBIT 2-2  
ETHICAL CONFLICT CASES AS A PERCENTAGE OF TOTAL ASSIGNED PUBLIC  
DEFENSE CASELOAD, 1999-2000**

| <b>Circuit<br/>Number</b> | <b>Assigned Cases</b> | <b>Ethical Conflict<br/>Cases</b> | <b>Ethical Conflict<br/>Percent of Total</b> |
|---------------------------|-----------------------|-----------------------------------|--|
| 1                         | 33,119                | 1,471                             | 4.4%   |
| 2                         | 15,287                | 2,144                             | 14.0%  |
| 3                         | 6,091                 | 224                               | 3.7%   |
| 4                         | 25,983                | 1,253                             | 4.8%   |
| 5                         | 20,554                | 1,149                             | 5.6%   |
| 6                         | 42,249                | 1,709                             | 4.0%   |
| 7                         | 25,438                | 857                               | 3.4%   |
| 8                         | 14,257                | 2,619                             | 18.4%  |
| 9                         | 29,198                | 2,874                             | 9.8%   |
| 10                        | 17,165                | 1,370                             | 8.0%   |
| 11                        | 79,123                | 4,192                             | 5.3%   |
| 12                        | 11,546                | 700                               | 6.1%   |
| 13                        | 42,940                | 256                               | 0.6%   |
| 14                        | 17,067                | 343                               | 2.0%   |
| 15                        | 49,002                | 1,381                             | 2.8%   |
| 16                        | 4,549                 | 139                               | 3.1%   |
| 17                        | 59,739                | 5,076                             | 8.5%   |
| 18                        | 21,257                | 459                               | 2.2%   |
| 19                        | 15,510                | 822                               | 5.3%   |
| 20                        | 22,442                | 629                               | 2.8%   |
| <b>Total</b>              | <b>552,516</b>        | <b>29,667</b>                     | <b>5.4%</b>                                  |

Source: Florida Public Defenders Coordination Office Caseload  
Comparison and Conflict Statistical Report

**2.1.4 National Best Practices**

On February 5, 2002, the American Bar Association House of Delegates adopted a resolution outlining the “Ten Principles of a Public Defense Delivery System.” The resolution stated these principles “constitute the fundamental criteria to be met for a public defense delivery system to deliver effective and efficient, high quality, ethical, conflict-free representation to accused persons who cannot afford to hire an attorney.” The principles, which apply to public defenders and court-appointed counsel, include:

- The public defense function is independent;
- When the caseload is sufficiently high, the public defense delivery system consists of both a defender office and the active participation of the private bar;

- Defense counsel's workload is controlled to permit the rendering of quality representation; and
- There is parity between defense counsel and the prosecution with respect to resources and defense counsel is included as an equal partner in the justice system.

Additionally, the National Legal Aid and Defender Association adopted its "Performance Guidelines for Criminal Defense Representation" in 1995, "Standards for the Administration of Assigned Counsel Systems" in 1989, and "Guidelines for Negotiating and Awarding Contracts for Criminal Defense Services" in 1984.

### **2.1.5 Other State Practices**

In California, the appellate courts fund and appoint counsel when an indigent defendant appeals a judgment following a felony conviction or in certain civil cases. In at least one county in the state (Alameda County), the public defender's office noted that approximately 10% of incoming matters are conflict cases. These cases are handled under contract with the Alameda County Bar Association by appointed private attorneys. The public defender stated that, though the contract with the local bar association is a "model for low-cost defense, the per case cost of ACBA representation is approximately twice that of public defender representation, due in large part to efficiencies and economies of scale" in the public defender's office.

California has also recently implemented rule amendments regarding court-appointed counsel for children. The amendments:

- "Require the court to specify the criteria necessary to find a child would not benefit from counsel;
- Expand training requirements for court-appointed counsel in child abuse and neglect cases; and
- Establish guidelines for appointment of a Court-Appointed Special Advocate for a specific proceeding if an attorney is not appointed for the child."

The Michigan Public Defense Task Force issued its “Eleven Principles of a Public Delivery System” in February 2002, which closely follows the ABA recommendations. Notably, the first principle is that the public defense function, including the selection, funding, and payment of defense counsel, is independent. Commentary attached to this reads, “To safeguard independence and to promote efficiency and quality of services, an independent board composed of attorneys and non-attorneys should oversee defender, assigned counsel, or contract systems. Removing oversight from the judiciary ensures judicial independence from undue political pressures and is an important means of furthering the independence of public defense.”

Exhibit 2-3 depicts a comparison of public defender workload standards by state, as included in the August 2002 FPDA “Public Defender Excessive Caseload Conflicts of Interest” position paper. The original source of these standards is the Spangenberg Group, which is a consulting firm with expertise in the area of indigent defense system improvements. The FPDA contracted with Spangenberg to conduct a study of the Florida Public Defender system in 1995. According to the FPDA, these data serve only as very general benchmark comparisons across states that probably had occasion, at some point in time, to develop and adopt maximum workload standards.



**EXHIBIT 2-3  
STATE-BY-STATE COMPARISON OF PUBLIC DEFENDER MAXIMUM WORKLOAD  
STANDARDS**

| State            | Felony              | Misdemeanor | Juvenile | Appeals |
|------------------|---------------------|-------------|----------|---------|
| Arizona          | 150                 | 300         | 200      | 25      |
| Colorado*        | 241                 | 598         | 310      | -       |
| Florida*         | 200                 | 400         | 250      | 50      |
| Georgia          | 150                 | 400         | 200      | 25      |
| Indiana          | 200                 | 400         | 250      | 25      |
| Louisiana        | 200                 | 450         | 250      | 50      |
| Massachusetts    | 200                 | 400         | 300      | -       |
| Minnesota*       | 120                 | 400         | 175      | -       |
| Missouri         | 40-180 <sup>1</sup> | 450         | 280      | 28      |
| Nebraska         | 50 <sup>2</sup>     | -           | -        | 40      |
| New York* (City) | 150                 | 400         | -        | 25      |
| Oregon           | 240                 | 400         | 480      | -       |
| Tennessee        | 233 <sup>3</sup>    | 850         | 273      | -       |
| Vermont          | 150                 | 400         | 200      | 25      |
| Washington       | 150                 | 300         | 250      | 25      |
| Wisconsin*       | 145                 | 323         | 207      | -       |

Source: "Public Defender Excessive Caseload Conflicts of Interest," Florida Public Defender Association, August 2002.

\* Jurisdictions where caseload standards were developed through case-weighting studies.

<sup>1</sup> Missouri's caseload standards establishes thresholds based on the severity of the felony charge. For Felony A and B cases, the public defender caseload standard is 40 cases per year. For Felony C and D cases, the public defender caseload standard is 180.

<sup>2</sup> The Nebraska Commission on Public Advocacy has established a felony caseload standard only for the most serious category of felonies. The standard represents the number of violent crime cases (rape, manslaughter, 2nd degree murder, sexual assault) that a single attorney could handle during a year if those cases were the only cases she handled during the year.

<sup>3</sup> The Tennessee public defender current workload for Felony A cases is 55, Felony B is 148, and Felony C, D & E is 302. This chart shows a single "Felony" workload figure (233). This combined felony workload is weighted to account for the large number of less serious felony cases represented by public defenders.

### **2.1.6 Recommendations**

#### ***Civil Court-Appointed Counsel***

Public defenders are not required to represent the indigents in these civil cases. In many circuits, however, they do appoint and manage the private counsel providing this representation, while in other circuits the court assumes these functions. The actual cost of civil court-appointed counsel cannot be determined since they are not recorded under a separate UCA code. Instead, these costs are probably included within court or public defender general administration. However, anecdotal evidence indicates the statewide cost is very significant. Two of the public defenders interviewed indicated their annual costs probably exceed ethical conflict attorney costs in their circuits. It is therefore important that the function be properly planned, budgeted and controlled.

The first step should be to standardize and specify by statute the responsibility for selecting, appointing and managing civil court-appointed counsel. MGT considered the following options:

- Public defender in each circuit;
- Court in each circuit;
- Office of the State Courts Administrator for the entire state; and
- Statewide office in an executive branch agency such as the Attorney General or the Department of Children and Families.

The last option was rejected since the function should be part of the judicial branch of government and the Department of Children and Families, specifically, is often the opposing counsel in these cases. The OSCA option was not selected because it would be very difficult to work at the state level with each of the local legal communities and to deal with local requirements. Also, OSCA would not have the benefit of direct day-to-day contact that could help them identify and resolve problems and refine the processes. The public defender in each circuit does not have legal responsibility or

involvement in these cases and their resources should not be diverted to management of these private attorneys.

**RECOMMENDATION 2.1-1:**

**Assign responsibility for funding, selecting and managing civil court-appointed counsel to the chief judge in each circuit. This will necessitate legislation. Uniform statewide procedures and guidelines should be established and direct and administrative support costs should be budgeted and recorded separately from other court costs.**

The Chief Judge, assisted by the head of family court and court administration in the circuit, would qualify and select private attorneys for cases, negotiate compensation rates, develop contracts, oversee the representation process, review and approve invoices, and evaluate attorney performance. They should solicit the advice and assistance of the public defender in carrying out these responsibilities, as appropriate.

To help ensure consistency, the Supreme Court, through OSCA, should establish uniform procedures and guidelines that specify:

- minimum attorney qualifications;
- procedures for selecting attorneys through annual contracts and/or through random selection from lists maintained by the court;
- compensation guidelines in terms of hourly rates and/or case flat rates, with modifications necessary to reflect the local marketplace;
- standard professional service agreement contracts;
- performance evaluation criteria and formats; and
- other procedural standards.

Direct costs and administrative support costs for this activity should be budgeted and recorded separately from other court costs.

Implementation of this recommendation will necessitate:

- legislation assigning responsibility for this activity to the circuit chief judges; and
- development of uniform policies and procedures by OSCA.

### ***Criminal Court-Appointed Counsel***

Workload conflicts occur when the court certifies that the public defender does not have the capacity to handle all assigned cases. We understand this has occurred in five circuits during the past few years. In these situations, private attorneys have been retained to help represent the indigent defendants with the exception of the 11<sup>th</sup> Circuit. In the 11<sup>th</sup> Circuit, Miami-Dade County chose to hire more than 80 attorneys to handle the workload conflicts under the supervision of the public defender. This approach was determined to be less costly than retaining private attorneys since the caseload volume was not expected to decrease in the foreseeable future.

Even though cost data for workload conflicts is not available, these expenditures are clearly very significant. The FPDA reported that in FY 2001 there were a total of 40,369 workload conflict cases compared to 27,508 ethical conflict cases, or nearly 50 percent more. During FY 2000, the counties recorded expenditures of nearly \$37 million for ethical conflicts only. If workload conflict expenditures were proportionately higher than the ethical conflict expenditures, the total cost would exceed \$50 million. While the use of workload staff attorneys in the 11<sup>th</sup> Circuit would reduce this amount significantly, the cost is probably still in the tens of millions of dollars.

The amount of money being spent for workload conflicts clearly must be reduced.

The options considered by MGT included:

- Reduce the caseload by changing the primary criterion used to declare a person indigent and eligible for public defender representation (e.g., 250 percent of the Federal poverty level);
- Reduce the amounts paid to private attorneys for handling cases;
- Increase the caseload being carried by existing public defender staffs;
- Increase public defender staffs in circuits with excess caseloads so that it is not necessary to use more expensive private attorneys; and

- Reduce existing public defender staffs and costs in circuits that have excess capacity to offset increases in circuits that have excess caseloads.

MGT is not able to assess the viability and financial impact of the first option of changing the criterion for declaring that a person has the right to public defender representation. Not only is this determination a matter of public policy rather than an operational issue, but also data is not available to determine the potential reduction in caseload at various alternative percentages.

Some circuits aggressively pursue rate reductions, using competitive bidding to minimize costs. Others have established rates that they believe are the minimum amounts that can be reasonably paid to the private attorneys. In circuits where competitive bidding has not been attempted, this approach could yield additional savings. Local bar associations could also be solicited as a way to involve smaller firms that might be reluctant to bid on their own. Because a number of circuits already use competitive bidding, however, the overall savings would probably not be significant compared to the total amount of money involved.

The last three options all require standards for the number of cases, by type, that an assistant public defender can reasonably be expected to handle. The National Legal Aid and Defender Association referred us to a study by the National Advisory Commission on Criminal Justice and Goals, which first developed numerical caseload limits in 1973 under the auspices of the U.S. Department of Justice. These caseload limits have been widely adopted and, according to a 1992 update, have proven “quite durable in the intervening three decades.” These caseload limits are:

- Felonies – not more than 150 per year per attorney;
- Misdemeanors (excluding traffic) – not more than 400 per year per attorney;
- Juvenile court cases – not more than 200 per year per attorney;

- Mental health – not more than 200 per year per attorney; and
- Appeals – not more than 25 per year per attorney.

These limits are mutually exclusive, i.e., a maximum of 150 felonies per year if the attorney handles only felony cases.

The FPDA developed their own caseload standards with the most recent amendment in July 1991. These are as follows:

- Felonies, capital – 3 per year per attorney;
- Felonies, non-capital – 200 per year per attorney;
- Criminal traffic – 400 per year per attorney;
- Juvenile court cases – 200 per year per attorney;
- Mental health – 200 per year per attorney;
- Appeals, capital – 2.5 per year per attorney; and
- Appeals, non-capital – 50 per year per attorney.

These standards appear to be consistent with the National Advisory Commission standards with the major difference being the separation of both felonies and appeals between capital cases and non-capital cases. The FPDA also had a non-traffic misdemeanor standard but it was removed from their funding formula in 1991.

Legislators have not adopted the FPDA standards and funding formula as a measure of budgetary needs. There may be a concern that it generated budget requirements in excess of the existing staffing levels even though most circuits appeared to be handling their caseload satisfactorily. Due to the lack of acceptable standards and associated funding formula, we rejected—for *implementation at the current time*—the option for increasing the public defender staffs' workload and the option for reducing staffs in circuits with excess capacity to offset staff increases in circuits with excess caseloads. These options should be revisited once acceptable standards and funding formula are established.

**RECOMMENDATION 2.1-2:**

**Reduce use of private counsel for case workload conflicts by hiring additional public defender staff in circuits where projected demand materially exceeds capacity. Until workload standards can be established, the additional position needs should be predicated upon existing certifications of inadequate resources, pursuant to 27.54(2)(b), F.S., and assurances that the level of demand will continue for the foreseeable future.**

The most obvious application of this recommendation is in the 11<sup>th</sup> circuit where the state should convert the 82 “conflict attorney” positions being provided by the county into assistant public defender positions. It should be noted, however, that the county directly funds only 47 of these positions with the balance of approximately \$2 million paid through the Grants and Donations Trust Funds. It may be possible to convert some or all of these monies to state use.

All other circuits should be surveyed to determine which, if any, have current certifications of inadequate resources, pursuant to 27.54(2)(b), F.S. The bases for these certifications should be examined and evaluated to determine whether the stated circumstances are not only still valid but are also expected to continue for the foreseeable future. If so, additional assistant public defenders and their associated support positions should be funded and hired to replace the number of equivalent full-time private attorneys being used for workload conflicts.

**RECOMMENDATION 2.1-3:**

**Conduct studies to establish public defender workload standards and funding formula. The studies should include definitions of all major activities performed by each type of position within all public defender offices across the state. A workload-based standard should be developed for each activity using a highly structured and controlled Delphi approach, similar to methodology used for the judicial weighted caseload study.**

There are several reasons why new workload standards and funding formula should be developed. First, the results generated by the current methodology lack credibility. Second, public defender processes have changed significantly since 1973 when the original studies were conducted, particularly because of technology’s impact. And third, the standards and formula should reflect Florida’s laws, organization, policies and procedures rather than a set of assumptions that can generally apply across the country.

The study should first define the major activities performed by each type of position within all public defender offices across the state. The work activity definitions may be stratified for small, medium and large circuits and should differentiate among the major types of cases. Each work activity definition should also specify the primary steps performed in completing a unit of output for that activity. Once developed, these definitions should be reviewed and approved by a project task force of public defenders and/or their representatives.

Upon approval of the case type and activity definitions, workload standards should be established. The most cost-effective method for establishing standards is a Delphi approach, similar to the judicial weighted caseload study but in a more highly structured and controlled setting. The standards should then be tested and validated by applying sample workload data. This may include measures in addition to caseload, such as dispositions. Funding formulas should then be developed to calculate the number and cost not only of assistant public defenders but also of supervisors, investigators, and support personnel.

Implementation of this recommendation will necessitate:

- joint participation by the legislature and the FPDA in the project to encourage mutual acceptance of the results ;
- establishment of plans and specifications for the study;
- determination as to whether an outside expert is needed to conduct the project; and
- appropriation of funding for the project.

#### **RECOMMENDATION 2.1-4:**

**Continue to use private attorneys to represent indigent defendants in ethical conflict cases but emphasize the need to reduce the number of ethical cases to a minimum. An approach used in at least two circuits to reduce the number of cases declared ethical conflicts was to require personal approval of the public defender in addition to approval by the responsible division head.**

Ethical conflicts occur when the public defender has adverse or hostile interests regarding a defendant that may interfere with quality representation. This could occur when two persons are charged in the matter and may accuse and/or testify against each other. It could also occur when the public defender has previously represented a victim or a key witness.

The number and cost of ethical conflict cases is very significant. As previously referenced, more than 27,500 cases were reported in FY 2001. In the prior fiscal year, counties recorded expenditures of nearly \$37 million for ethical conflict cases. Ways to reduce these costs therefore deserve substantial attention.

Cost reduction options that were considered include:

- Assign public defenders from other circuits to represent the client(s) rather than private attorneys;
- Establish a “firewall” within the public defender office so that an ethical conflict by an attorney in one part of the office could be handled by an attorney in the other part of the office;



- Ask that private law firms handle ethical conflict cases as part of their “pro bono” program; and
- Reduce the number of ethical conflict cases.

The first option of “cross-circuit representation” has been discussed and explored for many years by the legislature and within the public defender community. While there are many arguments on each side, the more significant issue appears to be the management and logistical problems that would be encountered. The large number of ethical conflict cases would require the assignment of hundreds of assistant public defenders outside their own circuit. The scheduling problems could be overwhelming. Case-related supervision would need to be provided by the home-circuit supervisors and that, in itself, could reintroduce the initial conflict. Administrative supervision must still be provided by the attorney’s home circuit, which could be very difficult if the attorney is in another circuit for any significant period of time. The travel time and expense issues could also be a problem.

The “firewall” option also has problems and probably would not eliminate the ethical conflict since the elected public defender must still be responsible for all personnel in the circuit. In addition, the establishment of two sets of management and support teams would probably not be cost-effective.

The two options just discussed would effectively remove or at least substantially reduce the role of private attorneys in the ethical conflict representation process. This is contrary to FPDA and the American Bar Association positions and principles.

The third option of asking law firms in the circuit to handle ethical conflict cases as part of a “pro bono” program could possibly result in some cost reductions but would not replace the use of paid attorneys. Not only is the amount of most firm’s pro bono work very limited but it is usually offered at the firm’s discretion and therefore may not be available when and where needed.

The last option of reducing the number of ethical conflict cases is probably the most viable, but the overall impact on costs would probably not be significant. Requests to declare an ethical conflict typically are initiated by the assistant public defender initially assigned to a case. The FPDA guidelines specify that the division head must approve that request. However, public defenders in two of the circuits MGT visited stated they instituted a policy that requires they personally approve of all ethical conflict requests. Both public defenders reported a material reduction in ethical conflict cases as a result of this more rigorous process. These results probably do not mean that the division heads were approving requests where an ethical conflict did not exist. It simply shows that many of these decisions are very subjective judgment calls. The criteria and the decisions cannot be quantified or defined in absolute black and white terms. It may be noted that private law firms avoid ethical conflict issues by simply refusing to take a client—an option not available to the public defender.

**RECOMMENDATION 2.1-5:**

**Standardize procedures for qualifying and selecting private attorneys to serve as conflict counsel. Qualification and selection should be the responsibility of the chief judge and public defender. This will require that 925.037, F.S., be revised to eliminate county representation. Competitive RFPs for a fixed price for a fixed number of cases should be used wherever feasible to minimize costs.**

Several different procedures are used to qualify and select conflict counsel. All circuits currently have conflict counsel committees, as specified by 925.037, F.S., consisting of the circuit's chief judge and public defender, or their representatives, plus a representative from each board of county commissioners in the circuit. Some circuit committees assume full responsibility for qualifying and selecting conflict counsel while, we were told, committees in other circuits have delegated this authority and, in fact, seldom meet. Some circuits issue Requests for Proposals (RFP) to law firms asking for their qualifications and/or compensation rates so they can be put on a "list" or can be awarded a "block" of conflict cases. Other circuits establish lists of attorneys who have previously served as conflict counsel for the circuit and/or have expressed an interest in performing the work and appear to meet at least the minimum qualifications. Attorneys for specific cases are then either selected by rotating through the list or by random drawings.

The following options for qualifying and selecting conflict counsel attorneys were considered:

- Reconfigure the committee to include just the chief judge and the public defender or their representatives. County representation should be eliminated since they will not be funding conflict counsel.
- Eliminate the committee and assign responsibility for determining qualifications and selecting conflict counsel to either the chief judge or the public defender.
- Allow each circuit to continue to establish their own qualification criteria and selection procedures or establish standard criteria and procedures for use by all circuits;

Our recommendation is to reconfigure the conflict committee so that it consists of the chief judge and the public defender, or their representatives. They should work within guidelines established by OSCA and the FPDA to determine whether or not attorneys requesting appointment as a conflict counsel for a specific type of case are qualified. The assessment should carefully consider the attorney(s) prior performance as a conflict counsel and both the trial judge and the public defender should perform this evaluation.

Wherever feasible, qualified individuals and/or firms should be selected to serve as conflict counsel through a competitive RFP process. This process would request a fixed bid for a fixed number of conflict counsel cases. This number of cases, however, should be no more than about 25 percent of the number of cases expected for the year. This limitation is necessary to avoid difficulties in meeting the required minimum and to ensure that the circuit has more than one firm it can rely upon. The RFPs may include an option for representation of additional cases at the same per case rate.

If competitive bids for a fixed number of cases are not feasible, the circuit should use random drawings from a list of attorneys qualified for that type of case. Random drawing should also be used to appoint conflict counsel to cases that are not included within the block awarded through RFPs.

Implementation of this recommendation will necessitate:

- legislation redefining the committee; and
- development of uniform policies and procedures by OSCA and the FPDA; and promulgation to all circuits.

#### **RECOMMENDATION 2.1-6:**

**Continue to assign responsibility for managing conflict counsel to the public defender even though there is merit to assigning responsibility to the trial court judge.**

It has been suggested that the trial court judge should manage the conflict counsel rather than the public defender. The primary reasons given are:

- Better able to assess the performance of the conflict attorney since their performance is personally observed throughout all stages of the adjudication process;
- More objective and independent since the public defender's staff may be opposing the conflict counsel's case strategy and position; and
- More objective determination regarding approval of conflict counsel requests for expenditures on investigators, witnesses, experts, evaluators, etc.

While these positions clearly have merit, we recommend that the public defenders continue to be responsible for conflict counsel management.

The trial judge's ability to better assess actual performance of the conflict attorney is a very valid assertion. This assessment is most relevant, however, when determining an attorney's qualifications to serve as conflict counsel, not in the actual management of counsel's performance. For example, if a judge determines that a conflict counsel's performance is not adequate during a trial, the corrective action available is basically limited to declaration of a mistrial. If a judge were to take steps to actually modify the counsel's performance during a trial, it would probably raise concerns regarding the judge's independence and objectivity. Our previous recommendation was that the court should have a very significant role in determining whether an attorney is qualified to serve as conflict counsel.

It does not appear that a trial court judge would be any more objective than the public defender in managing the conflict counsel. In fact, if the judge did have this management

responsibility, it could again be argued it would conflict with their primary responsibility of objective, impartial adjudication of the case. While the public defender could be opposing the conflict counsel's case strategy and position, neither the judge nor the public defender should be determining or guiding the approach that the conflict counsel uses to defend his client.

Decisions regarding approval of conflict counsel requests for expenditures on investigators, witnesses, experts, evaluators, etc. should be made based upon the reasonableness of the requested expenditure. With few exceptions, these decisions would probably be made by financial and/or administrative personnel within the court's or the public defender's office rather than by a judge or by an attorney in the public defender's office. The objectivity of the decisions would therefore be similar in both offices. A judge or a public defender would probably only be consulted in major, high-cost cases where the decisions and the objectivity of the decisions would be highly visible. In addition, since the public defender's financial/administrative personnel would be very familiar with the types and amounts of expenditures typically incurred for various types of cases, they are probably better equipped to make expenditure approval decisions than court-based personnel.

Implementation of this recommendation will not require any changes in current practices.

#### **RECOMMENDATION 2.1-7:**

**Establish standard practices for managing conflict counsel including compensation arrangements, contracts, and invoice review and approval. These should be established by a public defender task force and should allow the circuits to refine them to meet unique local requirements.**

Each circuit has established their own management practices and procedures with some inter-circuit collaboration as well as some FPDA guidance and assistance. This is true for the management of conflict counsel as well as most other activities. MGT believes that some improvements in operating effectiveness and efficiency can be realized through the development and adoption of standardized practices and procedures as long as the circuits are able to refine them to meet unique local requirements.

The most effective method for developing a set of standard practices and procedures is through a task force of representatives from a cross section of public defender offices. The task force should address the following issues:

- Compensation arrangements – Nearly all circuits currently compensate conflict counsel through either a flat rate for each type of case or through an hourly rate. Most hourly rate arrangements have some type of maximum limit. The task force should collect compensation information from all circuits and analyze the methodologies to identify those that appear to be the most cost-effective. The task force should then determine whether the best methodologies are applicable to all circuits, circuits of a particular size, or other types of circuit parameters. The results should be promulgated statewide and the circuits encouraged to adopt the applicable guidelines.

- Conflict counsel contracts – The task force should obtain copies of all conflict counsel contractual documents being used by the circuits. The best features and clauses from them should be incorporated into a standard contract for use by all circuits.
- Invoice review and approval – This process is currently performed by the county attorneys in many circuits but will become the public defenders' responsibility upon implementation of Revision 7. The task force should develop and promulgate a standardized process and a set of criteria for review and approval of conflict counsel invoices.

Implementation of this recommendation will necessitate establishment of an ad hoc task force of public defender representatives from a cross section of offices.

#### **RECOMMENDATION 2.1-8:**

**Establish budgets in each circuit for both workload conflicts and ethical conflicts and monitor actual expenditures and workload against those budgets. Each of the budgets should be allocated by month. JAC should prepare and issue monthly, statewide, comparative reports for all circuits and distribute to each public defender and the Legislature.**

The public defender in each circuit should develop month-by-month budget for workload conflict counsel and a similar budget for ethical conflict counsel. These budgets will provide the basis for managing and controlling each of these very significant cost elements that the state will be funding upon implementation of Revision 7.

The budgets for the first fiscal year will be particularly difficult to develop since the historical data reported by Uniform Chart of Accounts (UCA) code may include both types of conflict counsel expenditures and/or may omit certain other relevant expenditures. The contents of these accounts will probably vary from county to county. The initial budgets should be based upon whatever reasonable historical data is available modified by the best judgment of the public defenders office. These results should also be adjusted for policy and process improvements that are recommended in this report and have, or will be, implemented during that fiscal year. For example, if additional positions are established to compensate for workload conflicts, the budget for this account should be zero.

Actual expenditures during the year for workload and ethical conflicts should be monitored through monthly reports that also include the number and percent of cases assigned to conflict counsel. These actual results should be compared to the monthly and year-to-date budgets. The public defender in each circuit should provide a copy of their monthly report to the Justice Administrative Commission, who will prepare a statewide comparative report encompassing all circuits. Copies of the report should be distributed to each public defender as well as the legislature.

**RECOMMENDATION 2.1-9:**

**Establish a conflict counsel contingency budget within the Justice Administrative Commission to ensure funds are available to meet unforeseen requirements in any circuit such as high-profile or very complex cases. Initially, approximately five percent of the total expected statewide conflict counsel budget should be set aside for the contingency. A standing committee of public defenders should review any requests for use of these funds. If approved, the allocation should be highlighted on the monthly statewide comparative report.**

In addition to the each circuit's conflict counsel budget, a contingency budget should be established within, and managed by, the JAC. The purpose of this budget is to ensure funds are available to meet unforeseeable requirements in any of the circuits. These requirements are most often the result of high profile and/or very complex cases that require unusually large expenditures. Since these are exceptions that do not occur in each circuit each year, they are not and should not be reflected in normal budgets. However, the fees and expenses for these cases must be paid when they do occur.

The amount of the conflict counsel contingency budget should be determined like any other budgetary item – through analysis of past expenditures with adjustments for expected future changes. Since comprehensive, historical data regarding each circuit's expenditures for each type of conflict counsel is not available, we suggest the contingency budget be initially established at five percent of the total budgeted amount. In other words, 95 percent of the statewide total should be reflected in the circuit budgets.

If and when a circuit must fund a high-cost case or unusual requirement, they should submit a request to JAC for a contingency fund allocation. The request should identify the case or the nature of the requirement, the reason for the extraordinary levels of expenditure, the amount of the actual costs incurred, the normal cost for cases of this type, and the availability of funds in the regular budget for the expenditure.

A standing committee of public defenders should be established to review contingency fund requests. The committee should be responsible for managing contingency fund allocations so the budget is not exceeded. They should evaluate each request to ensure that the item clearly matches the purpose and intent of the contingency fund. They may, for example, establish a criterion that the cost should be at least five times the normal expenditure level for cases of this type. Any requests approved by the committee should be highlighted on the monthly statewide comparative report in Recommendation 2.1-8. The circumstances precipitating the unforeseen requirement should be considered during the next budget development process and actions taken to avoid recurrence, if at all possible.

**2.1.7 Potential Cost Reduction**

We estimate court-appointed counsel costs could be reduced by 5 to 15 percent through implementation of the recommendations just described. This estimate is based on our experience with similar studies involving independent entities that perform the same

basic function without centralized management and control and with little standardization of policies and procedures.

## **2.2 Court Reporters**

### **2.2.1 Definition/Description**

Court reporters provide a variety of services to the judicial system, including reporting, recording, and transcribing court proceedings. In many cases, the services of court reporters are necessary in order to meet certain constitutional and statutory requirements designed to protect the due process rights of indigent criminal defendants. The Commission on Trial Court Performance and Accountability has developed the following purpose statement for court reporting:

Reporting of court proceedings is the contemporaneous verbatim recording of words spoken in court. Verbatim recording allows for the immediate utilization of words spoken in court, the preservation of these words, and, when necessary, their timely and accurate transcription. Transcripts or other media are used by attorneys, litigants, judges, and the public to review events in court proceedings. This provides public accountability and facilitates due process through appellate review.”

The term “court reporting” can apply not only to the stenographic reporters operating in a courtroom context but also to other technologies, such as audio and video recording, which in some cases are operated remotely or by courtroom officials who are also performing other tasks.

Counties currently fund all court reporting costs. Expenditures of approximately \$18 million were recorded for FY 2000. These expenses, however, appear to exclude any administrative costs for managing the function. Estimates of court reporting costs made by the court, the state attorneys and the public defenders totaled more than \$28 million for the same fiscal year.

**2.2.2 Program Delivery Variations**

The court reporting methods used in the 20 circuits and 67 counties vary significantly. At one end of the spectrum are court reporters with shorthand machines that print a coded version of testimony on continuous paper strips. At the other end are digital video and audio recording systems that are monitored in a centralized, remote location. Ten different combinations of stenographers, digital recordings, CAT, tape, and video recordings are used in the criminal divisions of the 20 circuits. Court reporting personnel may be state/county employees or contractors who charge by the hour and by the transcribed page. Again in the criminal divisions, the circuits were nearly evenly divided between three personnel models: employee (seven circuits), contract (six circuits), and employee/contract mix (six circuits). The number and titles of employees and associated personnel costs currently paid by the counties are included as Exhibit 2-4.



**EXHIBIT 2-4  
COURT REPORTING POSITIONS AND PERSONNEL COSTS BY COUNTY AND  
CIRCUIT, FY2000**

| <b>Circuit</b> | <b>County</b>                        | <b>Position</b>               | <b>FTE</b> | <b>% on<br/>program</b> | <b>Allocated<br/>FTE</b> | <b>Personnel<br/>Costs</b> |
|----------------|--------------------------------------|-------------------------------|------------|-------------------------|--------------------------|----------------------------|
| 1              | Escambia                             | Chief Circuit Court Reporter  | 1          | 100%                    | 1                        | \$75,499                   |
|                |                                      | Circuit Court Reporter        | 6          | 100%                    | 6                        | \$304,125                  |
|                |                                      | County Court Reporter         | 6          | 100%                    | 6                        | \$161,767                  |
|                |                                      | Scopist                       | 1          | 100%                    | 1                        | \$35,903                   |
|                |                                      | Assistant Scopist             | 1          | 100%                    | 1                        | \$35,337                   |
|                |                                      | <b>Total</b>                  |            |                         | <b>15</b>                | <b>\$612,631</b>           |
|                | Okaloosa                             | Chief Court Reporter          | 1          | 100%                    | 1                        | \$64,131                   |
|                |                                      | Court Reporter                | 3          | 100%                    | 3                        | \$192,393                  |
|                |                                      | <b>Total</b>                  |            |                         | <b>4</b>                 | <b>\$256,524</b>           |
|                | Santa Rosa                           | Circuit Court Reporter        | 3          | 100%                    | 3                        | \$163,227                  |
|                |                                      | <b>Total</b>                  |            |                         | <b>3</b>                 | <b>\$163,227</b>           |
|                | Walton                               | Court Reporter                | 1          | 100%                    | 1                        | \$41,304                   |
|                |                                      | <b>Total</b>                  |            |                         | <b>1</b>                 | <b>\$41,304</b>            |
|                |                                      | <b>Circuit Total</b>          |            |                         | <b>23</b>                | <b>\$1,073,686</b>         |
| 2              | Gadsden                              | Official Court Reporter       | 1          | 100%                    | 1                        | \$48,053                   |
|                |                                      | <b>Total</b>                  |            |                         | <b>1</b>                 | <b>\$48,053</b>            |
|                | Leon                                 | Chief Official Court Reporter | 1          | 100%                    | 1                        | \$60,978                   |
|                |                                      | Official Court Reporter       | 1          | 100%                    | 8                        | \$381,294                  |
|                |                                      | <b>Total</b>                  |            |                         | <b>9</b>                 | <b>\$442,272</b>           |
|                |                                      | <b>Circuit Total</b>          |            |                         | <b>10</b>                | <b>\$490,325</b>           |
| 3              | Columbia (serves all seven counties) | Court Reporter                | 6          | 100%                    | 6                        | \$290,168                  |
|                |                                      | <b>Total</b>                  |            |                         | <b>6</b>                 | <b>\$290,168</b>           |
|                |                                      | <b>Circuit Total</b>          |            |                         | <b>6</b>                 | <b>\$290,168</b>           |

**Recommendations to Increase Efficiency/Reduce Costs of  
Essential Judicial System Activities**

**EXHIBIT 2-4 (Continued)  
COURT REPORTING POSITIONS AND PERSONNEL COSTS BY COUNTY AND  
CIRCUIT, FY2000**

| Circuit | County    | Position                         | FTE | % on<br>program | Allocated<br>FTE | Personnel<br>Costs |
|---------|-----------|----------------------------------|-----|-----------------|------------------|--------------------|
| 7       | Flagler   | Court Reporter Coordinator       | 1   | 100%            | 1                | \$41,920           |
|         |           | Court Reporter                   | 1   | 100%            | 1                | \$53,283           |
|         |           | <b>Total</b>                     |     |                 | <b>2</b>         | <b>\$95,203</b>    |
|         | St. Johns | Court Reporter Coordinator       | 1   | 100%            | 1                | \$59,744           |
|         |           | Court Reporter                   | 2   | 100%            | 2                | \$110,114          |
|         |           | <b>Total</b>                     |     |                 | <b>3</b>         | <b>\$169,858</b>   |
|         |           | <b>Circuit Total</b>             |     |                 | <b>5</b>         | <b>\$265,061</b>   |
| 8       | Alachua   | Court Reporter/Manager           | 1   | 100%            | 1                | \$73,493           |
|         |           | Judicial Court Reporter          | 9   | 100%            | 9                | \$494,993          |
|         |           | Scopist                          | 1   | 100%            | 1                | \$28,906           |
|         |           | Program Assistant                | 4   | 100%            | 4                | \$103,860          |
|         |           | Court Program Specialist I       | 1   | 100%            | 1                | \$31,837           |
|         |           | <b>Total</b>                     |     |                 | <b>16</b>        | <b>\$733,089</b>   |
|         |           | <b>Circuit Total</b>             |     |                 | <b>16</b>        | <b>\$733,089</b>   |
| 9       | Orange    | Managing Court Reporter          | 1   | 100%            | 1                | \$68,413           |
|         |           | Realtime Court Reporter          | 4   | 100%            | 4                | \$291,481          |
|         |           | Official Court Reporter          | 9   | 100%            | 9                | \$535,861          |
|         |           | Lead Automated Court Reporter    | 3   | 100%            | 3                | \$133,731          |
|         |           | Automated Court Reporter         | 15  | 100%            | 15               | \$496,336          |
|         |           | Administrative Assistant         | 1   | 100%            | 1                | \$34,400           |
|         |           | <b>Total</b>                     |     |                 | <b>33</b>        | <b>\$1,560,222</b> |
|         | Osceola   | Managing Off. Court Reporter     | 1   | 100%            | 1                | \$77,337           |
|         |           | Senior Official Court Reporter   | 1   | 100%            | 1                | \$66,217           |
|         |           | Official Court Reporter          | 2   | 100%            | 2                | \$109,515          |
|         |           | Senior Electronic Court Reporter | 1   | 25%             | 0.25             | \$9,159            |
|         |           | Electronic Court Reporter        | 4   | 25%             | 1                | \$34,351           |
|         |           | OCR/ECR Support Specialist       | 1   | 100%            | 1                | \$42,322           |
|         |           | <b>Total</b>                     |     |                 | <b>6.25</b>      | <b>\$338,901</b>   |
|         |           | <b>Circuit Total</b>             |     |                 | <b>39.25</b>     | <b>\$1,899,123</b> |
| 10      | Polk      | Electronic Court Reporter        | 1   | 100%            | 1                | \$23,906           |
|         |           | <b>Total</b>                     |     |                 | <b>1</b>         | <b>\$23,906</b>    |
|         |           | <b>Circuit Total</b>             |     |                 | <b>1</b>         | <b>\$23,906</b>    |

**EXHIBIT 2-4 (Continued)  
COURT REPORTING POSITIONS AND PERSONNEL COSTS BY COUNTY AND  
CIRCUIT, FY2000**

| Circuit | County       | Position                     | FTE | % on<br>program | Allocated<br>FTE | Personnel<br>Costs |
|---------|--------------|------------------------------|-----|-----------------|------------------|--------------------|
| 12      | Manatee      | Circuit Court Reporter       | 4   | 100%            | 4                | \$220,159          |
|         |              | <b>Total</b>                 |     |                 | <b>4</b>         | <b>\$220,159</b>   |
|         | Sarasota     | Court Reporter               | 3.5 | 25-100%         | 3.25             | \$158,251          |
|         |              | <b>Total</b>                 |     |                 | <b>3.25</b>      | <b>\$158,251</b>   |
|         |              | <b>Circuit Total</b>         |     |                 | <b>7.25</b>      | <b>\$378,410</b>   |
| 13      | Hillsborough | Criminal Court Reporter      | 7   | 100%            | 7                | \$234,192          |
|         |              | <b>Total</b>                 |     |                 | <b>7</b>         | <b>\$234,192</b>   |
|         |              | <b>Circuit Total</b>         |     |                 | <b>7</b>         | <b>\$234,192</b>   |
| 14      | Bay          | Judicial Court Reporter      | 5   | 100%            | 5                | \$261,386          |
|         |              | <b>Total</b>                 |     |                 | <b>5</b>         | <b>\$261,386</b>   |
|         | Jackson      | Court Reporter               | 1   | 100%            | 1                | \$47,305           |
|         |              | <b>Total</b>                 |     |                 | <b>1</b>         | <b>\$47,305</b>    |
|         |              | <b>Circuit Total</b>         |     |                 | <b>6</b>         | <b>\$308,691</b>   |
| 15      | Palm Beach   | Manager Court Reporting      | 1   | 100%            | 1                | \$46,085           |
|         |              | CAT Court Reporter           | 9   | 100%            | 9                | \$596,635          |
|         |              | Recording Clerk              | 9   | 100%            | 9                | \$259,383          |
|         |              | Senior Text Editor           | 1   | 100%            | 1                | \$34,775           |
|         |              | Text Editor                  | 3   | 100%            | 3                | \$91,716           |
|         |              | <b>Total</b>                 |     |                 | <b>23</b>        | <b>\$1,028,594</b> |
|         |              | <b>Circuit Total</b>         |     |                 | <b>23</b>        | <b>\$1,028,594</b> |
| 16      | Monroe       | Managing Court Reporter      | 1   | 100%            | 1                | \$69,142           |
|         |              | Court Reporter               | 5   | 100%            | 5                | \$288,974          |
|         |              | <b>Total</b>                 |     |                 | <b>6</b>         | <b>\$358,116</b>   |
|         |              | <b>Circuit Total</b>         |     |                 | <b>6</b>         | <b>\$358,116</b>   |
| 17      | Broward      | Court Reporter Coordinator   | 1   | 50%             | 0.5              | \$22,188           |
|         |              | Coordinator Cont. Mgmt.      | 1   | 50%             | 0.5              | \$27,709           |
|         |              | Electronic Court Reporter    | 5   | 100%            | 5                | \$173,746          |
|         |              | Court Monitor                | 4.5 | 100%            | 4.5              | \$121,431          |
|         |              | Administrative Specialist I  | 1   | 100%            | 1                | \$25,778           |
|         |              | Administrative Specialist IV | 2   | 25-100%         | 1.25             | \$35,751           |
|         |              | <b>Total</b>                 |     |                 | <b>12.75</b>     | <b>\$406,603</b>   |
|         |              | <b>Circuit Total</b>         |     |                 | <b>12.75</b>     | <b>\$406,603</b>   |

Source: OSCA Analysis of Revision 7 Elements.

Circuits also have different standards for use of court reporters. For instance, the Eighth Circuit requires all criminal cases be recorded, regardless of legal requirements, stating this practice contributes to judicial and general legal accountability. The Eighth Circuit also employs a staff of court reporters and advocates the employee model for delivery of services. Other circuits have determined that court reporter services are only necessary in cases where there is a legal obligation to provide the services. The fee schedules employed by circuits vary from circuit to circuit, and, in some cases, from county to county within each circuit.

### **2.2.3 Stakeholder Entity Input**

In September 2002 the Court Reporting Work Group of the Trial Court Performance and Accountability Commission conducted a “Best Business Practices in Court Reporting” workshop, the results of which are being compiled as part of the commission’s final report and recommendations.

### **2.2.4 National Best Practices**

The National Court Reporters Association (NCRA) has advocated for four issues related to court reporters:

- More funding should be secured for realtime reporter and captioner education;
- Court reporters should remain on the leading edge of technological advancements;
- Court reporters should under any contracting arrangement should be allowed to maintain their impartiality and independence as “Guardians of the Record”; and
- The number of court reporters with closed captioning or CART training should be increased to meet the needs of hearing impaired court participants.

According to the NCRA, 25 states have passed legislation or rules prohibiting or restricting contracting arrangements between parties in interest and court reporters. The NCRA, in conjunction with the coalition of Citizens for Impartial Justice, continues to lobby for legislative and/or rule changes on a state-by-state basis to prohibit parties in litigation from entering into contracts with court reporters, deposition officers, and officers of the court that diminish their neutral and impartial role in the administration of justice.

#### **2.2.5 Other State Practices**

In a September 2001 court reporting compensation survey conducted by the National Center for State Courts, several states offered statewide and local information regarding transcription rates, the number of realtime reporters on staff, and court reporter salaries, which is included as Appendix B1 and as Exhibits 2-5 through 2-8.

While the respondents from the majority of states were from court administrator offices, Georgia courts responded through the state's Board of Court Reporting. The board is authorized by the 1974 Georgia Court Reporting Act to certify and license all court reporters serving the state judicial branch. The Judicial Council of Georgia appoints members of the board, reviews the rules of the board, and sets official court reporting fees. The Board of Court Reporting is also tasked with overseeing the continuing education and discipline of all court reporters serving the judicial branch in the state.

Similar to Georgia's program, Arizona instituted a court reporter certification program in 1999. State statutes direct that the Supreme Court, upon recommendation of the state's Board of Certified Court Reporters, implement and enforce rules regulating the certification and conduct of court reporters and adopt a fee schedule for the testing and certification of court reporters.

**EXHIBIT 2-5  
STATE COURT REPORTER SALARIES**

| State          | Entry Salary (Annual)       | Highest Salary (Annual)     |
|----------------|-----------------------------|-----------------------------|
| Arkansas       | \$24,715.00                 | \$48,527.00                 |
| Colorado       | \$31,476.00                 | \$54,012.00                 |
| Connecticut    | \$50,000.00                 | \$65,000.00                 |
| Hawaii         | District Ct \$36,504.00     | District Ct \$55,200.00     |
|                | Circuit Ct \$40,800.00      | Circuit Ct \$62,400.00      |
| Idaho          | \$36,522.00                 | \$41,535.00                 |
| Illinois       | \$26,393.00                 | \$69,552.00                 |
| Iowa           | \$39,499.20                 | \$51,168.00                 |
| Kansas         | \$35,067.00                 | \$44,757.00                 |
| Maine          | \$33,364.50                 | \$50,641.00                 |
| Massachusetts  | \$45,203.62                 | \$57,531.91                 |
| New Hampshire  | \$41,089.36                 | \$52,441.59                 |
| New Jersey     | \$32,591.00                 | \$71,424.47                 |
| New York       | County Ct \$52,899.00       | County Ct \$75,840.00       |
|                | Supreme Ct \$62,377.00      | Supreme Ct \$88,171.00      |
|                | Southern Fed Ct \$58,432.00 | Southern Fed Ct \$64,276.00 |
| North Carolina | \$30,000.00                 | \$47,000.00                 |
| Oregon         | \$35,256.00                 | \$47,249.00                 |
| South Carolina | Circuit Ct \$33,259.00      | Circuit Ct \$35,914.00      |
|                | Family Ct \$28,294.00       | Family Ct \$90,794.00       |
| Vermont        | \$28,000.00                 | \$36,000.00                 |
| Wisconsin      | \$32,163.04                 | \$45,335.68                 |

Source: National Center for State Courts, Court Reporting Compensation Survey.

**EXHIBIT 2-6  
STATE TRANSCRIPT PAGE RATES**

| State                 | Criminal<br>Transcript Page<br>Rate -<br>Ordinary Delivery | Criminal<br>Transcript Page<br>Rate -<br>Daily Delivery | Civil Transcript<br>Page Rate -<br>Ordinary Delivery | Civil Transcript<br>Page Rate -<br>Daily Delivery |
|-----------------------|--|---|--|---|
| Arkansas              | \$3.10   | N/A   | \$3.10   | N/A   |
| California            | .85/100 words  | N/A   | .85/100 words  | plus 50%  |
| Colorado              | \$2.35   | N/A   | \$2.35   | N/A   |
| Connecticut           | \$1.75   | N/A   | \$1.75   | N/A   |
| Hawaii                | Non-Appeal \$2.25<br>Appeal \$1.75                         | \$4.70  | \$2.25   | \$4.50  |
| Idaho                 | \$3.25   | N/A   | \$3.25   | N/A   |
| Illinois              | \$1.80   | \$2.10  | \$1.80   | \$2.10  |
| Iowa                  | \$2.75   | N/A   | \$3.00   | N/A   |
| Kansas                | \$2.75   | Up to 4 times the<br>original                           | \$2.75   | Up to 4 times the<br>original                     |
| Maine                 | \$3.00   | \$6.00  | N/A  | N/A   |
| Massachusetts         | \$3.00   | \$4.50  | \$3.00   | \$4.50  |
| New Hampshire         | \$2.25   | \$4.50  | \$2.25   | \$4.50  |
| New Jersey            | \$3.00   | \$4.50  | \$3.00   | \$6.00  |
| New York <sup>1</sup> | \$2.50-\$4.30  | \$3.75-\$6.50   | \$2.50-\$4.30  | \$3.75-\$6.50                                     |
| North Carolina        | \$1.75   | N/A   | N/A  | N/A   |
| Oregon                | \$2.50   | N/A   | \$2.50   | N/A   |
| South Carolina        | \$3.25   | \$6.25  | N/A  | N/A   |
| Vermont               | \$2.25   | \$4.50  | \$2.25   | \$4.50  |
| Wisconsin             | \$2.25   | \$3.00  | \$2.25   | \$3.00  |

Source: National Center for State Courts, Court Reporting Compensation Survey.

<sup>1</sup>State Court fee rates vary based on government agency or private party and language difficulty.

**EXHIBIT 2-7  
LOCAL COURT REPORTER SALARIES**

| City  | Entry Salary<br>(Annual) | Highest Salary<br>(Annual) |
|---|--------------------------|----------------------------|
| Los Angeles Superior Court, CA                  | \$64,468.32              | \$75,860.76                |
| San Diego Superior Court, CA                    | \$57,200.00              | \$69,513.60                |
| Ventura Superior Court, CA                      | \$50,722.00              | \$65,665.00                |
| 11th Judicial Circuit Court, Miami, FL          | N/A - Contracted out     | N/A - Contracted out       |
| Fulton County Superior Court, Atlanta, GA       | \$41,729.00              | \$59,254.00                |
| Hennepin County District Court, Minneapolis, MN | \$33,617.00              | \$52,116.00                |
| Clark County (Las Vegas), NV                    | \$32,119.36              | \$49,782.72                |
| County Criminal Court, Houston, TX              | \$49,020.00              | \$52,020.00                |
| King County Superior Court, Seattle, WA         | \$53,772.24              | \$53,772.24                |

Source: National Center for State Courts, Court Reporting Compensation Survey.

**EXHIBIT 2-8  
LOCAL TRANSCRIPT PAGE RATES**

| City  | Criminal Transcript Page Rate - Ordinary Delivery | Criminal Transcript Page Rate - Daily Delivery | Civil Transcript Page Rate - Ordinary Delivery | Civil Transcript Page Rate - Daily Delivery |
|---|---|--|--|---|
| Los Angeles Superior Court, CA                  | \$2.97  | \$2.97   | \$3.00   | \$4.50                                      |
| San Diego Superior Court, CA                    | \$2.80  | \$2.80   | \$3.00   | \$4.50                                      |
| Ventura Superior Court, CA                      | \$1.15  | \$1.85   | \$3.00   | \$3.50                                      |
| 11th Judicial Circuit Court, Miami, FL          | \$4.75  | \$7.50   | \$3.50   | \$4.50                                      |
| Fulton County Superior Court, Atlanta, GA       | \$3.25  | \$6.50   | \$3.25   | \$6.50                                      |
| Hennepin County District Court, Minneapolis, MN | \$3.25  | N/A  | \$3.55   | N/A   |
| Clark County (Las Vegas), NV                    | \$3.55  | \$7.10   | \$3.55   | \$7.10                                      |
| Cincinnati, OH                                  | \$2.50  | \$3.00   | N/A  | N/A   |
| County Criminal Court, Houston, TX              | \$4.00  | \$8.00   | N/A  | N/A   |
| King County Superior Court, Seattle, WA         | \$4.00  | Reporter sets rate                             | \$4.00   | Reporter sets rate                          |

Source: National Center for State Courts, Court Reporting Compensation Survey.



In Texas the administration and staffing of court reporters is managed at the county level but there is a statewide requirement of one official reporter for each court of record. Statewide, all court reporters must be certified by the Texas Court Reporters Certification Board.

In California, court reporters must be certified through the Board of Shorthand Reporters. All official court reporters are funded by the state. California has adopted statewide minimum transcript format standards and has appointed a task force to study issues related to court reporting, including standardization of court reporting systems, uniformity of transcripts, and maintenance of and access to transcripts via electronic and paper media.

#### **2.2.6 Recommendations**

##### **RECOMMENDATION 2.2-1:**

**Implement digital electronic court reporting as soon as possible in all circuits/facilities where the investment is cost justified. Only certain courts in five circuits are currently equipped with this technology. The investment required can be significant but cost savings can offset it in less than five years in many situations.**

Digital electronic court reporting has several significant advantages over other forms of reporting. Rather than one reporter being assigned full time in a single courtroom, one operator can monitor four to six courtroom recordings simultaneously. These operator salaries are also less than court reporter salaries and substantially less than the \$20 to \$60 per hour charged by contractors. In addition, transcription costs should be lower and, arguably, more accurate since the transcriber can listen to and/or view the proceedings as many times as necessary. This would also remedy the difficulty some locations are having ensuring that sufficient numbers of court reporters will be available when and where they are needed.

The disadvantage of digital electronic reporting is that a significant initial investment is required to install the system. One county's budget for equipment, software and wiring was about \$25,000 per courtroom or hearing room, \$2,200 per operator station, and \$10,000 for each portable system. Despite this initial expense, however, the county estimated the investment would be recovered in less than five years because of the lower annual operating costs.

In a 2002 survey conducted by the Court Reporting Workgroup of the Trial Court Performance and Accountability Commission, only five circuits reported that they used

digital electronic recording in circuit criminal cases, county criminal cases and juvenile dependency and delinquency cases. No data is available to determine the number of courthouses or the number of courtrooms that are currently wired to use digital electronic recording.

One of the options considered for the provision of court reporting services was to use the state's centralized purchasing power to award a statewide contract. However, marketplace analysis indicates that essentially all court reporting firms operate on a regional or local basis. This is due, in part, to the many highly volatile court "events" that require flexible resource deployment and scheduling. This flexibility and responsiveness typically is provided only through personal attention at the local level.

Our recommendation is that circuits move as rapidly as possible to convert to digital electronic reporting where the conversion is clearly cost-justified. This will necessitate investments in facility preparation, equipment acquisition, and operator training but the financial and operational benefits could be significant—more than offsetting the investments within a few years. While no specific criteria exist to determine when such an investment would be cost justified, a rule of thumb is that the savings should be enough to recover the investment within three to five years. Other factors should also be considered, such as a lack of availability of sufficient number of court reporters to cover all court events.

Implementation of this recommendation will necessitate:

- cost-benefit analysis of circuits and courtrooms to identify high-volume, high-need facilities where an investment in digital electronic reporting would have rapid payback;
- identification of circuits/facilities where cost-benefit analysis indicates conversion would not be cost-effective for the foreseeable future;
- establishment of a time-phased plan for conversion of high-return circuits/facilities;
- development of funding requirements and a funding plan that considers leveraging of the state's purchasing power to acquire the necessary equipment; and
- appropriation of project funding.

#### **RECOMMENDATION 2.2-2:**

**Ensure that circuits provide only the court reporting services needed to meet minimum legal requirements.**

Court reporting services are to be provided at public expense only in the following cases:

- indigent defendants in criminal cases;
- judicial waiver of notice in parental notice of abortion act cases;
- baker act hearings;
- guardianship hearings; and

- domestic violence injunctions.

There is evidence that some circuits may be providing court reporting services at public expense in other situations. The Supreme Court should take action, through OSCA, to ensure that all circuits are providing only mandated services.

### **RECOMMENDATION 2.2-3:**

**Determine whether contractor transcription of digital recordings would be cost effective on either a circuit or statewide basis.**

Since digital recordings are on DVDs or CDs, it is relatively easy and fast to have them transcribed by a contractor. A disk can be sent by overnight delivery and the transcript can be returned electronically. Since transcripts should only be produced upon request, most circuits will probably not have enough transcription work to keep an in-house staff fully productive throughout the year. The annual cost of using a contractor, therefore, may be substantially less than employing a full-time staff to perform the work. One county currently uses a contractor in Canada for their transcriptions.

The Supreme Court, through OSCA, should test the marketplace for transcription services. This would first require development of an estimate of the digital recording volume for each circuit and the number or percentage of these recordings that must be transcribed. Vendor interest can be determined by identifying companies who may be able to provide this service and by surveying them through letters or telephone calls. Alternatively, requests for quotations or requests for information could be advertised through the procurement unit. Potential vendors could be asked about their interest in providing services on either a statewide basis or a circuit basis.

#### **2.2.7 Potential Cost Reduction**

The counties vary widely in terms of their current use of digital recording, the number of facilities that must be wired, and other variables. The one-time cost to implement this recommendation, therefore, cannot be determined without extensive additional study. Due to the substantial differences in operating practices, staffing and costs among the counties, additional study is also required to develop reasonable estimates of potential annual savings. The budget figures developed by one medium-size county (Lee County), however, showed potential annual savings of almost 40 percent. Using a much more conservative estimate of 20 percent and current annual cost of \$18 million (without administration), results in a potential savings of about \$3.6 million per year once one-time installation costs have been recovered.

## **2.3 Court Interpreters**

### **2.3.1 Definition/Description**

A court interpreter is a duly qualified individual who is called upon by the court to provide language (including sign language) interpretation when a witness cannot hear or understand the English language or who cannot express himself or herself in English enough to be understood (90.606, F.S.). Court interpreters provide a complete and accurate rendition of all communications among all participants in a court proceeding. Interpreter services are constitutionally required in certain instances to protect the due process rights of parties and to facilitate the fair administration of justice. The provision of sign language interpretation is required by both federal and Florida constitutions. State law also specifically provides for interpretation services to aid parties in formulating methods of questioning a child or person with mental retardation and in interpreting the answers of the child or person with mental retardation throughout proceedings (22.53(5), F.S.).

There are currently no specific guidelines regarding when an interpreter should be appointed. Rather, discretion to appoint has traditionally been vested in the trial judge. Additionally, there is no comprehensive state law that provides standards for the qualification of interpreters or guidelines for the evaluation of the English proficiency of a court participant who may need an interpreter.

Counties currently fund all court interpreters who are provided at public expense. Expenditures of approximately \$4 million were recorded for FY 2000. These expenses, however, appear to exclude any costs for sign language interpreters and any administrative costs for managing the function. Estimates of court interpreter costs made by the court totaled about \$5.5 million for the same fiscal year.

### **2.3.2 Program Delivery Variations**

The use of court interpreters is tied directly to the population of a circuit, and specifically to the racial and ethnic makeup of residents of a circuit. For instance, large, urban areas with diverse populations, like Miami-Dade, have a demonstrated need for substantial services. There are currently 126 languages spoken within the school system, and the court is exposed to all of them. The circuit currently employs 47 staff interpreters and maintains contracts with eight regional vendors for services. Smaller, rural areas, such as Union County, may have little or no need for interpreter services. In FY2000, the county reported no expenditures for interpreter services. Data from the 2000 U.S. Census regarding the language use and ability of Floridians is included as Exhibit 2-9. Additionally, Exhibit 2-10 depicts the total base budget for court interpreters ordered by judicial system entities by circuit.

#### **EXHIBIT 2-9 LANGUAGE USE AND ENGLISH ABILITY, FLORIDIANS 18 YEARS AND OVER**

|  |            |
|--|------------|
| Total number of persons 18 years and older | 10,073,426 |
| Speaks only English                        | 8,335,563  |
| Speaks Spanish                             | 1,168,410  |
| Speaks Non-English at Home                 |            |
| Total                                      | 1,737,863  |
| Percent                                    | 17.3%      |
| Ability to Speak English                   |            |
| Very well                                  | 890,001    |
| Well                                       | 380,862    |
| Not well                                   | 292,676    |
| Not at all                                 | 174,324    |
| In Household                               |            |
| Linguistically Isolated*                   | 456,399    |
| All Speak Non-English Language             | 1,313,678  |

\* A linguistically isolated household is one in which no person 14 or older speaks English at least very well.

Source: U.S. Census Bureau, Language Use and English Ability, Persons 18 Years and Over, by State: 1990 Census

**EXHIBIT 2-10  
BASE BUDGET, COURT INTERPRETERS ORDERED BY THE COURT, STATE  
ATTORNEY, PUBLIC DEFENDER, OR COURT-APPOINTED COUNSEL, FY2000**

| <b>Circuit</b> | <b>FTE*</b>  | <b>Salary &amp;<br/>Benefits</b> | <b>OPS/<br/>Expense</b> | <b>Total</b>       |
|----------------|--------------|----------------------------------|-------------------------|--------------------|
| 1              | 0.00         | \$0                              | \$9,684                 | \$9,684            |
| 2              | 0.00         | \$0                              | \$18,786                | \$18,786           |
| 3              | 0.00         | \$0                              | \$7,401                 | \$7,401            |
| 4              | 0.00         | \$0                              | \$58,625                | \$58,625           |
| 5              | 0.00         | \$0                              | \$45,657                | \$45,657           |
| 6              | 0.00         | \$0                              | \$124,657               | \$124,657          |
| 7              | 0.00         | \$0                              | \$45,559                | \$45,559           |
| 8              | 0.00         | \$0                              | \$13,028                | \$13,028           |
| 9              | 5.00         | \$213,541                        | \$162,496               | \$376,037          |
| 10             | 3.00         | \$100,385                        | \$71,630                | \$172,014          |
| 11             | 51.00        | \$2,344,709                      | \$479,738               | \$2,824,447        |
| 12             | 0.00         | \$0                              | \$121,300               | \$121,300          |
| 13             | 8.00         | \$349,162                        | \$90,394                | \$439,556          |
| 14             | 0.00         | \$0                              | \$10,988                | \$10,988           |
| 15             | 10.90        | \$467,535                        | \$287,590               | \$755,125          |
| 16             | 1.00         | \$33,264                         | \$29,233                | \$62,497           |
| 17             | 9.00         | \$326,108                        | \$123,372               | \$449,480          |
| 18             | 0.00         | \$0                              | \$65,206                | \$65,206           |
| 19             | 1.00         | \$33,899                         | \$97,864                | \$131,763          |
| 20             | 2.00         | \$76,301                         | \$124,370               | \$200,671          |
| <b>Total</b>   | <b>90.90</b> | <b>\$3,944,905</b>               | <b>\$1,987,576</b>      | <b>\$5,932,481</b> |

Source: OSCA Analysis of Revision 7 Elements, Base Budget

\* FTE refers to the number of salaried employees earning benefits within the element.

In addition to staff interpreters, many circuits employ administrative staff to oversee interpreter operations in a circuit and/or coordinators to act as liaisons between the court and contracted vendors. Some circuits pay contracted interpreters on an “assignment” or “court event” basis, and some circuits pay interpreters on an hourly basis. Court interpreter staff positions and related personnel costs by circuit that are currently being paid by the counties are included as Exhibit 2-11.

**EXHIBIT 2-11  
COURT INTERPRETER POSITIONS AND PERSONNEL  
COSTS BY CIRCUIT, FY2000**

| <b>Circuit</b> | <b>County</b> | <b>Position</b>                  | <b>FTE</b> | <b>% on<br/>program</b> | <b>Allocated<br/>FTE</b> | <b>Personnel<br/>Costs</b> |
|----------------|---------------|----------------------------------|------------|-------------------------|--------------------------|----------------------------|
| 9              | Orange        | Ct Interpreter Svcs. Coordinator | 1          | 100%                    | 1                        | \$48,457                   |
|                |               | Court Interpreter                | 2          | 100%                    | 2                        | \$81,922                   |
|                |               | Administrative Assistant         | 1          | 100%                    | 1                        | \$31,273                   |
|                |               | <b>Total</b>                     |            |                         | <b>4</b>                 | <b>\$161,652</b>           |
|                | Osceola       | Interpreter                      | 1          | 75%                     | 0.75                     | \$30,567                   |
|                |               | <b>Total</b>                     |            |                         | <b>0.75</b>              | <b>\$30,567</b>            |
|                |               | <b>Circuit Total</b>             |            |                         | <b>4.75</b>              | <b>\$192,219</b>           |
| 10             | Highlands     | GAL Assistant/Court Interpreter  | 1          | 50%                     | 0.5                      | \$15,393                   |
|                |               | <b>Total</b>                     |            |                         | <b>0.5</b>               | <b>\$15,393</b>            |
|                | Polk          | Court Interpreter Coordinator    | 1          | 100%                    | 1                        | \$37,331                   |
|                |               | Staff Court Interpreter          | 1          | 100%                    | 1                        | \$23,292                   |
|                |               | <b>Total</b>                     |            |                         | <b>2</b>                 | <b>\$60,623</b>            |
|                |               | <b>Circuit Total</b>             |            |                         | <b>2.5</b>               | <b>\$76,016</b>            |
| 11             | Dade          | Court Interpreter                | 46.72      | 100%                    | 46.72                    | \$2,271,135                |
|                |               | Judicial Support Administrator I | 1          | 100%                    | 1                        | \$60,848                   |
|                |               | Judicial Support Specialist I    | 1          | 100%                    | 1                        | \$28,178                   |
|                |               | Judicial Support Specialist II   | 1          | 100%                    | 1                        | \$46,748                   |
|                |               | <b>Total</b>                     |            |                         | <b>49.72</b>             | <b>\$2,406,909</b>         |
|                |               | <b>Circuit Total</b>             |            |                         | <b>49.72</b>             | <b>\$2,406,909</b>         |
| 13             | Hillsborough  | Court Program Manager            | 1          | 100%                    | 1                        | \$48,085                   |
|                |               | Senior Court Interpreter         | 2          | 100%                    | 2                        | \$95,129                   |
|                |               | Court Interpreter                | 4          | 100%                    | 4                        | \$168,612                  |
|                |               | Secretary Specialist             | 1          | 100%                    | 1                        | \$29,621                   |
|                |               | <b>Total</b>                     |            |                         | <b>8</b>                 | <b>\$341,447</b>           |
|                |               | <b>Circuit Total</b>             |            |                         | <b>8</b>                 | <b>\$341,447</b>           |
| 15             | Palm Beach    | Interpreter Supervisor           | 1          | 100%                    | 1                        | \$51,740                   |
|                |               | Interpreter                      | 9.5        | 100%                    | 9.5                      | \$383,243                  |
|                |               | <b>Total</b>                     |            |                         | <b>10.5</b>              | <b>\$434,983</b>           |
|                |               | <b>Circuit Total</b>             |            |                         | <b>10.5</b>              | <b>\$434,983</b>           |

**EXHIBIT 2-11 (Continued)  
COURT INTERPRETER POSITIONS AND PERSONNEL  
COSTS BY CIRCUIT, FY2000**

| <b>Circuit</b> | <b>County</b> | <b>Position</b>              | <b>FTE</b> | <b>% on<br/>program</b> | <b>Allocated<br/>FTE</b> | <b>Personnel<br/>Costs</b> |
|----------------|---------------|------------------------------|------------|-------------------------|--------------------------|----------------------------|
| 16             | Monroe        | Interpreter                  | 1          | 100%                    | 1                        | \$33,260                   |
|                |               | <b>Total</b>                 |            |                         | <b>1</b>                 | <b>\$33,260</b>            |
|                |               | <b>Circuit Total</b>         |            |                         | <b>1</b>                 | <b>\$33,260</b>            |
|                |               |                              |            |                         |                          |                            |
| 17             | Broward       | Court Interpreter            | 8          | 100%                    | 8                        | \$265,707                  |
|                |               | Administrative Specialist IV | 1          | 75%                     | 0.75                     | \$26,001                   |
|                |               | <b>Total</b>                 |            |                         | <b>8.75</b>              | <b>\$291,708</b>           |
|                |               | <b>Circuit Total</b>         |            |                         | <b>8.75</b>              | <b>\$291,708</b>           |
|                |               |                              |            |                         |                          |                            |
| 19             | St. Lucie     | Interpreter                  | 1          | 100%                    | 1                        | \$35,750                   |
|                |               | <b>Total</b>                 |            |                         | <b>1</b>                 | <b>\$35,750</b>            |
|                |               | <b>Circuit Total</b>         |            |                         | <b>1</b>                 | <b>\$35,750</b>            |
|                |               |                              |            |                         |                          |                            |
| 20             | Collier       | Court Interpreter            | 1          | 100%                    | 1                        | \$45,513                   |
|                |               | <b>Total</b>                 |            |                         | <b>1</b>                 | <b>\$45,513</b>            |
|                | Lee           | Court Interpreter            | 1          | 100%                    | 1                        | \$32,803                   |
|                |               | <b>Total</b>                 |            |                         | <b>1</b>                 | <b>\$32,803</b>            |
|                |               | <b>Circuit Total</b>         |            |                         | <b>2</b>                 | <b>\$78,316</b>            |
|                |               |                              |            |                         |                          |                            |

Source: OSCA Analysis of Revision 7 Elements

### **2.3.3 Stakeholder Entity Input**

It is the position of the Trial Court Performance and Accountability Commission that criminal defendants have a constitutional right to an interpreter as a matter of due process to ensure meaningful participation in all proceedings. The commission additionally identified three criteria to be considered with regard to when an interpreter should be appointed in civil cases:

- The participant's inability to comprehend English deprives him or her of an understanding of the court proceedings;
- A fundamental issue or interest is at stake; and



- No alternative to judicial intervention exists for the resolution of the issues in dispute.

The commission also argued that Title VI of the Civil Rights Act of 1964 may require courts to provide court interpretation and translation for all limited proficiency individuals regardless of the second and third criteria described above. Though civil litigants generally are not entitled to interpreter services at public expense, the due process and equal rights considerations above may require that the court provide these services. However, the commission noted that, where interpreter services are to be provided at public expense, courts may in some circumstances charge non-indigent parties for the cost of providing the service. In addition to general policy recommendations, the commission analyzed the current level of interpretation services provided by court division and by case type and provided related commentary (See Appendix C1).

Proposed rules for certification and regulation of court interpreters were submitted to the Rules of Judicial Administration Committee of the Florida Bar for review in 2001, and were later proposed as a new Rule of Judicial Administration (See Appendix C4). The proposal is still pending.

#### **2.3.4 National Best Practices**

The National Center for State Courts (NCSC) was instrumental in the creation of the Consortium for State Court Interpreter Certification in 1995, and the NCSC continues to provide research and administer the consortium. As of August 2002, 29 states were members of the consortium, the purpose of which is to share expertise and the expense associated with developing and administering testing and certification programs for interpreters. Requirements for participation by states in the consortium include:

- A financial contribution relative to the state's non-English speaking population;
- Agreement to abide by test administration and security standards;  
and

- Participation in governance and program development activities.

The U.S. Department of Justice, Bureau of Justice Assistance publication “Trial Court Performance Standards” outlines standards for increasing the effectiveness, efficiency, and responsiveness of courts at the national, state, and local levels. One standard discussed in the document, “Effective Participation,” relates to the ability of those who appear before trial courts to participate effectively. The standard requires courts to provide the opportunity to participate effectively in court proceedings to all court users without undue hardship or inconvenience, including persons with linguistic difficulties and handicaps. In addition, Standard 2.2, “Compliance with Schedules,” requires the courts to provide information and services in a timely and expeditious manner. According to the standard, “services provided to those within the court’s jurisdiction may include . . . translation services for some litigants, witnesses, or jurors.”

In 1999, the Minnesota Court Interpreter Advisory Committee released its “Best Practices Manual On Interpreters In the Minnesota State Court System” designed to guide judges and court administrators in appointing qualified interpreters and using them effectively in court. The manual, which is included as Appendix C18, provides the following information:

- Description of when the court is required by law to appoint and pay for interpreters;
- Definition of a “qualified” court interpreter;
- Guidelines for court administrators to perform initial screening of interpreters;
- Points to consider in employment arrangements;
- A model voir dire for judges to establish the interpreter’s qualifications for appointment; and
- Suggestions for appropriate and efficient use of interpreters in court proceedings.

### **2.3.5 Other State Practices**

Certification requirements of the states in the consortium vary greatly from state to state. Some states, such as Illinois and Minnesota, require interpreters seeking certification to attend a workshop, pass a written test, undergo a records check, swear an oath, and pass an oral performance test. Other states, such as Hawaii and Florida, have no certification process in place. Exhibit 2-12 depicts state certification requirements as of 2001.

Court interpreter salaries in states participating in the consortium vary as well, as depicted in Exhibit 2-13. They include state-paid salaries, county-paid salaries and hourly rates.

In addition to the common in-court interpretation, some states, including Idaho, New Jersey, Washington, and Florida, offer telephonic interpretation. Through such interpretation, courts in rural areas or areas in which interpreter services are not available can access qualified interpreter services telephonically, without incurring costs for interpreter travel, while allowing service to a larger area than would normally be possible. Idaho, which installed a telephonic system in four of its rural counties in 1999, estimates a complete system that allows for extended hearings with multiple litigants costs approximately \$3,000 installed, while a limited system that allows for brief hearings with one litigant at a time costs about \$1,000 installed. Current costs for telephonic interpretation by a State Certified interpreter in Idaho are \$25 for up to 30 minutes and \$1 per minute for each additional minute.

**EXHIBIT 2-12  
COURT INTERPRETER CERTIFICATION REQUIREMENTS BY STATE, 2001**

| State               | Requirements                      |                   |               |               |                            | Reciprocity                      |                                 |                                    | Comments   |
|---------------------|-----------------------------------|-------------------|---------------|---------------|----------------------------|----------------------------------|---------------------------------|------------------------------------|--|
|                     | Attend Basic Orientation Workshop | Pass Written Test | Records Check | Swear an Oath | Pass Oral Performance Test | Consortium Test in Another State | Pass Federal Certification Test | Pass California Certification Test |  |
| Arkansas            |                                   |                   |               |               |                            |                                  |                                 |                                    | To be determined   |
| California          | yes                               | yes               |               |               | yes                        | yes                              | yes                             |                                    | Must also take ethics workshop   |
| Colorado            | yes                               |                   |               | yes           | yes                        | yes                              | yes                             |                                    | Must sign a code of ethics   |
| Connecticut         |                                   |                   |               |               |                            |                                  |                                 |                                    | No information   |
| Cook Cty (Illinois) | yes                               | yes               | yes           | yes           | yes                        | yes                              | yes                             | yes                                | Recommended; final approval pending  |
| Delaware            | yes                               |                   | yes           | yes           | yes                        | yes                              |                                 |                                    | Also require a Delaware business license   |
| Florida             |                                   |                   |               |               |                            |                                  |                                 |                                    | No cert. process as of 2001  |
| Georgia             |                                   |                   |               |               |                            |                                  |                                 |                                    | No requirements as of 2001   |
| Hawaii              |                                   |                   |               |               |                            |                                  |                                 |                                    | No cert. program as of 2001  |
| Idaho               | yes                               | yes               |               |               | yes                        | yes                              |                                 |                                    |  |
| Maryland            | yes                               | yes               |               |               | yes                        | yes                              | yes                             |                                    |  |
| Massachusetts       | yes                               | yes               |               |               | yes                        | yes                              | yes                             |                                    | Requirements are being reviewed to include 2 yrs. of interpreting experience & bachelor's degree |
| Michigan            |                                   |                   |               |               |                            |                                  |                                 |                                    | To be determined as of 2001  |
| Minnesota           | yes                               | yes               | yes           | yes           | yes                        | yes                              | yes                             |                                    |  |
| Missouri            | yes                               |                   | yes           | yes           | yes                        | yes                              |                                 |                                    |  |
| Nebraska            | yes                               | yes               | yes           | yes           | yes                        | yes                              | yes                             |                                    |  |
| New Jersey          | yes                               |                   | proposed      | yes           | yes                        | yes                              | yes                             |                                    | Program is for "approval" not certification  |
| New Mexico          | yes                               |                   |               | yes           | yes                        | yes                              | yes                             |                                    |  |
| North Carolina      | yes                               |                   | yes           | yes           | yes                        | yes                              | yes                             |                                    | Also require court official recommendations  |
| Oregon              | yes                               | yes               | yes           | yes           | yes                        | yes                              | yes                             | yes                                |  |
| Utah                | yes                               | yes               | yes           | yes           | yes                        | yes                              | yes                             | possibly                           | Possibly may allow passing of CA test to certify   |
| Virginia            | yes                               | yes               |               | yes           | yes                        | yes                              | yes                             |                                    |  |
| Washington          |                                   | yes               |               | yes           | yes                        |                                  |                                 |                                    |  |
| Wisconsin           |                                   |                   |               |               |                            |                                  |                                 |                                    | To be determined   |

Source: Consortium for State Court Interpreter Certification, National Center for State Courts

**EXHIBIT 2-13  
COURT INTERPRETER SALARIES BY STATE, 2001**

| State               | State Employees       |                   |                  | County Employees      |                   |                  |
|---------------------|-----------------------|-------------------|------------------|-----------------------|-------------------|------------------|
|                     | Salaried Interpreters | Entry Salary Rate | High Salary Rate | Specify County        | Entry Salary Rate | High Salary Rate |
| Arkansas            | no                    |                   |                  |                       |                   |                  |
| California          | yes                   |                   |                  | any                   | \$30,000          | \$66,000         |
| Colorado            | yes                   | \$36,876          | \$49,416         |                       |                   |                  |
| Connecticut         | yes                   | \$36,027          | \$46,945         |                       |                   |                  |
| Cook Cty (Illinois) | yes                   |                   |                  | Cook                  | \$30,958          | \$41,683         |
|                     |                       |                   |                  | Cook (sign-certified) | \$35,780          | \$42,906         |
|                     |                       |                   |                  | Lake                  | \$17.50/hr (FT)   | \$19.20/hr (FT)  |
|                     |                       |                   |                  | Will                  | \$22,418          | \$42,811         |
| Delaware            | no                    |                   |                  |                       |                   |                  |
| Florida             | yes                   |                   |                  | statewide             | \$22,400          | \$42,500         |
| Georgia             | no                    |                   |                  |                       |                   |                  |
| Hawaii              | no                    |                   |                  |                       |                   |                  |
| Idaho               | no                    |                   |                  |                       |                   |                  |
| Maryland            | no                    |                   |                  |                       |                   |                  |
| Massachusetts       | no                    |                   |                  |                       |                   |                  |
| Michigan            | no                    |                   |                  | Lansing               | \$25/hr           |                  |
| Minnesota           | yes*                  |                   |                  | Ramsey                | \$13/hr           | \$15/hr          |
| Missouri            | no                    |                   |                  |                       |                   |                  |
| Nebraska            | no                    |                   |                  |                       |                   |                  |
| New Jersey          | yes                   | \$29,365 (1)      | \$48,365 (1)     |                       |                   |                  |
|                     |                       | \$33,365 (2)      | \$54,365 (2)     |                       |                   |                  |
|                     |                       | \$36,365 (3)      | \$59,365 (3)     |                       |                   |                  |
|                     |                       | \$40,365 (sup.)   | \$69,000 (sup.)  |                       |                   |                  |
| New Mexico          | no                    |                   |                  |                       |                   |                  |
| North Carolina      | no                    |                   |                  |                       |                   |                  |
| Oregon              | yes                   | \$31,680 (1)      | \$42,432 (1)     |                       |                   |                  |
|                     |                       | \$34,920 (2)      | \$46,764 (2)     |                       |                   |                  |
| Utah                | no                    |                   |                  |                       |                   |                  |
| Virginia            | no                    |                   |                  |                       |                   |                  |
| Washington          | no info.              |                   |                  |                       |                   |                  |
| Wisconsin           | yes                   |                   |                  | Milwaukee             |                   | \$36,000         |

Source: Consortium for State Court Interpreter Certification, National Center for State Courts

Texas requires that all court interpreters hold a court interpreter license from the Texas Department of Licensing and regulation. The license must have a language

endorsement for each language that the applicant will interpret. The administration of court interpretation services is handled at the county level.

The State of California provides for the cost of interpreter services in criminal proceedings only. The current standardized rate is \$265 per day. The California Judicial Council is currently seeking a rate increase to \$305 per day, which will equal the rate paid in federal court. The council is also seeking to fund up to one interpreter coordinator per county, based on population. In California, there is a standardized certification process for 14 languages and an alternate certification process for languages other than the primary fourteen.

New Jersey requires that all court interpreters attend and complete a seminar on the Code of Professional Conduct for Interpreters, Translators, and Translators. This requirement may be waived if an individual presents pre-determined, specified proof of comparable training. Individuals wishing to become approved interpreters must also pass an examination for each language for which they wish to interpret. Once an interpreter has been trained, or provided proof of their training, they must register with the New Jersey Administrative Office of the Courts.

### **2.3.6 Recommendations**

#### **RECOMMENDATION 2.3-1:**

**Develop general laws and/or rules to govern court interpretation that address intent, qualifications, ethics, public expense eligibility, and notice and waiver.**

The Trial Court Performance & Accountability Commission submitted a report to the Chief Justice of the Supreme Court on March 20, 2002, regarding court interpretation. A copy of the document is included as Appendix C1 to this report. One of the commission's major findings was that there are no comprehensive Florida statutes or caselaw specifying how the constitutional rights of persons who do not communicate in English shall be protected.

Only three statutes mandating court interpreter services were identified in MGT's Phase 1 report.

- F.S. 90.606 regarding services to witnesses who can't hear, understand or express themselves in English;
- F.S. 90.6063 regarding a deaf person who is a complainant, defendant, witness or party to a court proceeding; and
- F.S. 905.15 regarding grand jury witnesses who don't speak or understand English.

In addition, F.S. 92.53(5) authorizes interpreters for testimony of witnesses under 16 years old or persons with mental retardation.

The TCP&A Commission recommended that a comprehensive statute and/or rule be created to provide consistent guidance to the courts regarding utilization, management and compensation of interpretation services. This same guidance is needed for interpretation services used by state attorneys and public defenders. The following matters should be addressed:

- intent of the legislature or Supreme Court regarding service provision;
- interpreter qualifications, testing and certification requirements;
- interpreter ethics, confidentiality and privilege;
- criteria for provision of service at public expense; and
- notice of a person needing interpreter services and provision for waiver of services.

Implementation of this recommendation will necessitate legislation to establish general laws and/or promulgation of rules by the Chief Justice.

#### **RECOMMENDATION 2.3-2:**

**Develop standardized processes for managing and using interpreters including determination of public expense eligibility, in-house vs. contracted, contractor selection, model contract provisions including billing rates, oversight and evaluation, and invoice review and approval. These should be developed by a task force of court representatives and should allow the circuits to refine them to meet local requirements.**

Each circuit has established their own management practices and procedures regarding the provision of court interpreter services. MGT believes that some improvements in operating effectiveness and efficiency can be realized through the development and adoption of standardized practices and procedures as long as the circuits are able to refine them to meet unique local requirements.

The most effective method for developing a set of standard practices and procedures is through a task force of representatives from a cross section of courts, similar to the

Commission on Trial Court Performance and Accountability. The task force should address the following issues:

- procedures and criteria for determining those eligible to receive interpreter services at public expense including types of matters and proceedings;
- criteria regarding employment of in-house staff and/or use of contractors;
- procedures for selecting contract interpreters and duration of contracts;
- contractual provisions regarding interpreter qualifications, procedural requirements, billing rates, expense reimbursement, etc.
- oversight and evaluation of contractor services; and
- review and approval of contractor invoices. This is currently performed by the county attorneys in many circuits but will become the courts' responsibility upon implementation of Revision 7.

Implementation of this recommendation will require that the Trial Court Performance and Accountability Commission or a similar body with representation from the circuit trial courts develop uniform policies and procedures and that these be issued as rules by the Chief Justice.

### **RECOMMENDATION 2.3-3:**

**Establish monthly interpreter budgets for each circuit and monitor actual expenditures and workload against those budgets. OSCA should prepare and issue monthly, statewide, comparative reports for all circuits and distribute to each circuit and the Legislature.**

Court administration in each circuit should develop a month-by-month budget for interpreters. The budgets will provide a basis for managing and controlling the significant costs of these services that the state will be funding upon implementation of Revision 7. The budgets should be based upon historical expenditures, with reductions for policy and process improvements.

Actual expenditures during the year should be monitored through monthly reports that also include the number of occurrences of court-appointed interpreter "events" and the total amount of time interpreters are present in court. These actual results should be compared to the monthly and year-to-date budgets. Each circuit should provide a copy of their monthly report to the Office of the State Courts Administrator (OSCA). OSCA should use this information to prepare a statewide comparative report encompassing all circuits. Copies of the report should be distributed to each circuit as well as the legislature.



**RECOMMENDATION 2.3-4:**

**Establish an interpreter contingency budget within OSCA to ensure funds are available to meet unforeseen requirements in any circuit such as high-profile or very complex cases. Initially, approximately five percent of the total expected statewide interpreter budget should be set aside for the contingency. OSCA should review any requests for use of these funds. If approved, the allocation should be highlighted on the monthly statewide comparative report.**

In addition to the each circuit's interpreter budget, OSCA should develop and manage an interpreter contingency budget. The purpose of this budget is to ensure funds are available to meet unforeseeable requirements in any of the circuits. These requirements are most often the result of high profile and/or very complex cases that require unusually large expenditures. Since these are exceptions that do not occur in each circuit each year, they are not and should not be reflected in normal budgets. However, the fees and expenses for these cases must be paid when they do occur.

The amount of the interpreter contingency budget should be determined like any other budgetary item – through analysis of past expenditures with adjustments for expected future changes. Since comprehensive, historical data regarding each circuit's interpreter expenditures for each type of case is not available, we suggest the contingency budget be initially established at five percent of the total budgeted amount. In other words, 95 percent of the statewide total should be reflected in the circuit budgets.

If and when a circuit must fund a high-cost case, they should submit a request to OSCA for a contingency fund allocation. The request should identify the case, the reason for the extraordinary levels of expenditure, the amount of the actual costs incurred, the normal cost for cases of this type, and the availability of funds in the regular budget for the expenditure.

OSCA should be responsible for managing contingency fund allocations so the budget is not exceeded. They should evaluate each request to ensure that the item clearly matches the purpose and intent of the contingency fund. They may, for example, establish a criterion that the cost should be at least five times the normal expenditure level for cases of this type. Any requests approved by OSCA should be highlighted on the monthly statewide comparative report in Recommendation 2.3-3. The circumstances precipitating the unforeseen requirement should be considered during the next budget development process and actions taken to avoid recurrence, if at all possible.

**2.3.7 Potential Cost Reduction**

We estimate court interpreter costs could be reduced by two to five percent through implementation of the four recommendations just described. This estimate is based upon our experience with similar studies where standardized policies and procedures are established to help guide the decision making of 20 independent organizational entities. The change in budgetary responsibility will have an even greater impact on costs.

Currently, the courts decide when interpreters` are to be used and the amount spent while the counties are responsible for providing the funds. Upon implementation of Revision 7, funding will become the responsibility of state and the courts. With one entity having both the decision-making and funding responsibility and with a specific budget item that is monitored monthly, our experience indicates it is realistic to expect an estimated cost reduction of two to five percent.

## **2.4 Witnesses/Evaluators**

### **2.4.1 Definition/Description**

Witnesses/Evaluators provide service to the Court, the State Attorney, the Public Defender, or Court-appointed Counsel under a number of different situations.

They provide both expert opinion testimony and information concerning matters in dispute, or in matters relating to the physical, psychological, and/or mental health conditions of persons affected by, or subject to, dispositional orders of the court. The qualifications of individuals who provide these services are extremely varied, given the wide range of issues that will come before the court and required such expertise to ensure due process.

Witnesses called on behalf of indigent criminal defendants are constitutionally mandated. Numerous statutory mandates and authorizations exist to provide for witnesses, for psychological evaluators, and for child custody investigations. Also, in circumstances where an objective evaluation is necessary to determine competency prior to actions that may result in loss of individual liberties (involuntary commitment, determination of incapacity), the use of an expert witness or evaluator is critical to ensuring due process.

The counties fund most costs for witnesses/evaluators who are provided at public expense but certain of these costs may be reimbursed by the state. Counties reported

spending approximately \$9 million during FY 2000. This includes all witnesses/evaluators regardless of the entity requesting those services. In addition, approximately \$5 million in administrative costs for witness coordination and management were recorded for the same fiscal year. Evaluator coordination and management costs were not recorded separately and, therefore, are not included in the \$14 million. (These costs were probably included as part of “court administration” and/or “clinical examinations.”)

#### **2.4.2 Program Delivery Variations**

While the delivery of witness/evaluator services is quite similar across circuits, the level of services required and the process for coordinating and managing the services varies greatly. Some larger circuits like Miami-Dade have found that the size of their population requires extensive expert witness and evaluator services. To avoid problems that can occur with contracted evaluators, the circuit created an internal “Court Evaluation Unit,” consisting of 9 staff psychologists. According to the court administrator’s office, the circuit has realized both a cost savings and consistency in services as a result. Smaller circuits use relatively few evaluators and therefore have little or no need for evaluator coordination or management functions. Exhibit 2-14 depicts personnel, contractual, and other costs associated with expert witnesses and psychological evaluators by circuit that are currently being paid for by the counties.

Witness coordination, including scheduling and ensuring witness appearances, is provided in some circuits through the state attorney’s office. In some instances, county-paid employees are dedicated to coordinating the appearance schedules of police officers, which helps police departments avoid unnecessary court time and overtime pay for officers.

**EXHIBIT 2-14  
EXPERT WITNESS AND PSYCHOLOGICAL EVALUATOR FTEs AND COSTS BY CIRCUIT, FY2000**

| Circuit & Counties   | FTE          |                | Personnel \$ |                | Contractual    |                | Expense         |                  | Grant Funds  |                | Grand Total     |                  |
|----------------------|--------------|----------------|--------------|----------------|----------------|----------------|-----------------|------------------|--------------|----------------|-----------------|------------------|
|                      | Psych. Eval. | Expert Witness | Psych. Eval. | Expert Witness | Psych. Eval.   | Expert Witness | Psych. Eval.    | Expert Witness   | Psych. Eval. | Expert Witness | Psych. Eval.    | Expert Witness   |
| 1 Escambia           | 0.00         | 0.00           | \$0          | \$0            | \$0            | \$0            | \$0             | \$102,587        | \$0          | \$0            | \$0             | \$102,587        |
| Okaloosa             | 0.00         | 0.00           | \$0          | \$0            | \$0            | \$0            | \$28,460        | \$0              | \$0          | \$0            | \$28,460        | \$0              |
| Santa Rosa           | 0.00         | 0.00           | \$0          | \$0            | \$0            | \$0            | \$48,178        | \$0              | \$0          | \$0            | \$48,178        | \$0              |
| Walton               | 0.00         | 0.00           | \$0          | \$0            | \$0            | \$0            | \$7,808         | \$1,617          | \$0          | \$0            | \$7,808         | \$1,617          |
| <b>Circuit Total</b> | <b>0.00</b>  | <b>0.00</b>    | <b>\$0</b>   | <b>\$0</b>     | <b>\$0</b>     | <b>\$0</b>     | <b>\$84,446</b> | <b>\$104,204</b> | <b>\$0</b>   | <b>\$0</b>     | <b>\$84,446</b> | <b>\$104,204</b> |
| 2 Franklin           | 0.00         | 0.00           | \$0          | \$0            | \$0            | \$0            | \$0             | \$0              | \$0          | \$0            | \$0             | \$0              |
| Gadsden              | 0.00         | 0.00           | \$0          | \$0            | \$0            | \$0            | \$60,692        | \$2,438          | \$0          | \$0            | \$60,692        | \$2,438          |
| Jefferson            | 0.00         | 0.00           | \$0          | \$0            | \$0            | \$0            | \$0             | \$0              | \$0          | \$0            | \$0             | \$0              |
| Leon                 | 0.00         | 0.00           | \$0          | \$0            | \$0            | \$0            | \$0             | \$0              | \$0          | \$0            | \$0             | \$0              |
| Liberty              | 0.00         | 0.00           | \$0          | \$0            | \$0            | \$0            | \$0             | \$0              | \$0          | \$0            | \$0             | \$0              |
| Wakulla              | 0.00         | 0.00           | \$0          | \$0            | \$0            | \$0            | \$0             | \$0              | \$0          | \$0            | \$0             | \$0              |
| <b>Circuit Total</b> | <b>0.00</b>  | <b>0.00</b>    | <b>\$0</b>   | <b>\$0</b>     | <b>\$0</b>     | <b>\$0</b>     | <b>\$60,692</b> | <b>\$2,438</b>   | <b>\$0</b>   | <b>\$0</b>     | <b>\$60,692</b> | <b>\$2,438</b>   |
| 3 Columbia           | 0.00         | 0.00           | \$0          | \$0            | \$0            | \$0            | \$40,671        | \$0              | \$0          | \$0            | \$40,671        | \$0              |
| Dixie                | 0.00         | 0.00           | \$0          | \$0            | \$0            | \$0            | \$0             | \$0              | \$0          | \$0            | \$0             | \$0              |
| Hamilton             | 0.00         | 0.00           | \$0          | \$0            | \$0            | \$0            | \$0             | \$0              | \$0          | \$0            | \$0             | \$0              |
| Lafayette            | 0.00         | 0.00           | \$0          | \$0            | \$0            | \$0            | \$0             | \$2,483          | \$0          | \$0            | \$0             | \$2,483          |
| Madison              | 0.00         | 0.00           | \$0          | \$0            | \$5,654        | \$0            | \$0             | \$0              | \$0          | \$0            | \$5,654         | \$0              |
| Suwannee             | 0.00         | 0.00           | \$0          | \$0            | \$0            | \$0            | \$0             | \$0              | \$0          | \$0            | \$0             | \$0              |
| Taylor               | 0.00         | 0.00           | \$0          | \$0            | \$0            | \$0            | \$10,761        | \$1,987          | \$0          | \$0            | \$10,761        | \$1,987          |
| <b>Circuit Total</b> | <b>0.00</b>  | <b>0.00</b>    | <b>\$0</b>   | <b>\$0</b>     | <b>\$5,654</b> | <b>\$0</b>     | <b>\$51,432</b> | <b>\$4,470</b>   | <b>\$0</b>   | <b>\$0</b>     | <b>\$57,086</b> | <b>\$4,470</b>   |
| 4 Clay               | 0.00         | 0.00           | \$0          | \$0            | \$0            | \$0            | \$0             | \$0              | \$0          | \$0            | \$0             | \$0              |
| Duval                | 0.00         | 0.00           | \$0          | \$0            | \$0            | \$0            | \$30,660        | \$53,282         | \$0          | \$0            | \$30,660        | \$53,282         |
| Nassau               | 0.00         | 0.00           | \$0          | \$0            | \$0            | \$0            | \$0             | \$0              | \$0          | \$0            | \$0             | \$0              |
| <b>Circuit Total</b> | <b>0.00</b>  | <b>0.00</b>    | <b>\$0</b>   | <b>\$0</b>     | <b>\$0</b>     | <b>\$0</b>     | <b>\$30,660</b> | <b>\$53,282</b>  | <b>\$0</b>   | <b>\$0</b>     | <b>\$30,660</b> | <b>\$53,282</b>  |
| 5 Citrus             | 0.00         | 0.00           | \$0          | \$0            | \$0            | \$0            | \$0             | \$0              | \$0          | \$0            | \$0             | \$0              |
| Hernando             | 0.00         | 0.00           | \$0          | \$0            | \$0            | \$0            | \$0             | \$0              | \$0          | \$0            | \$0             | \$0              |
| Lake                 | 0.00         | 0.00           | \$0          | \$0            | \$0            | \$0            | \$0             | \$0              | \$0          | \$0            | \$0             | \$0              |
| Marion               | 0.00         | 0.00           | \$0          | \$0            | \$0            | \$0            | \$0             | \$0              | \$0          | \$0            | \$0             | \$0              |
| Sumter               | 0.00         | 0.00           | \$0          | \$0            | \$0            | \$0            | \$0             | \$0              | \$0          | \$0            | \$0             | \$0              |
| <b>Circuit Total</b> | <b>0.00</b>  | <b>0.00</b>    | <b>\$0</b>   | <b>\$0</b>     | <b>\$0</b>     | <b>\$0</b>     | <b>\$0</b>      | <b>\$0</b>       | <b>\$0</b>   | <b>\$0</b>     | <b>\$0</b>      | <b>\$0</b>       |

Source

e: OSCA Article V Inventory, County by County Summary, FY2000.

**EXHIBIT 2-14 (Continued)**  
**EXPERT WITNESS AND PSYCHOLOGICAL EVALUATOR FTEs AND COSTS BY CIRCUIT, FY2000**

| Circuit &<br>Counties | FTE             |                   | Personnel \$       |                   | Contractual        |                   | Expense          |                   | Grant Funds        |                   | Grand Total        |                   |
|-----------------------|-----------------|-------------------|--------------------|-------------------|--------------------|-------------------|------------------|-------------------|--------------------|-------------------|--------------------|-------------------|
|                       | Psych.<br>Eval. | Expert<br>Witness | Psych.<br>Eval.    | Expert<br>Witness | Psych.<br>Eval.    | Expert<br>Witness | Psych.<br>Eval.  | Expert<br>Witness | Psych.<br>Eval.    | Expert<br>Witness | Psych.<br>Eval.    | Expert<br>Witness |
| 6 Pasco               | 0.00            | 0.00              | \$0                | \$0               | \$89,294           | \$0               | \$0              | \$0               | \$0                | \$0               | \$89,294           | \$0               |
| Pinellas              | 7.00            | 0.00              | \$485,113          | \$0               | \$0                | \$0               | \$20,045         | \$0               | (\$330,006)        | \$0               | \$175,152          | \$0               |
| <b>Circuit Total</b>  | <b>7.00</b>     | <b>0.00</b>       | <b>\$485,113</b>   | <b>\$0</b>        | <b>\$89,294</b>    | <b>\$0</b>        | <b>\$20,045</b>  | <b>\$0</b>        | <b>(\$330,006)</b> | <b>\$0</b>        | <b>\$264,446</b>   | <b>\$0</b>        |
| 7 Flagler             | 0.00            | 0.00              | \$0                | \$0               | \$5,525            | \$0               | \$0              | \$1,804           | \$0                | \$0               | \$5,525            | \$1,804           |
| Putnam                | 0.00            | 0.00              | \$0                | \$0               | \$0                | \$0               | \$35,719         | \$0               | \$0                | \$0               | \$35,719           | \$0               |
| St. Johns             | 0.00            | 0.00              | \$0                | \$0               | \$0                | \$0               | \$53,175         | \$16,130          | \$0                | \$0               | \$53,175           | \$16,130          |
| Volusia               | 0.00            | 0.00              | \$0                | \$0               | \$0                | \$0               | \$13,755         | \$10,375          | \$0                | \$0               | \$13,755           | \$10,375          |
| <b>Circuit Total</b>  | <b>0.00</b>     | <b>0.00</b>       | <b>\$0</b>         | <b>\$0</b>        | <b>\$5,525</b>     | <b>\$0</b>        | <b>\$102,649</b> | <b>\$28,309</b>   | <b>\$0</b>         | <b>\$0</b>        | <b>\$108,174</b>   | <b>\$28,309</b>   |
| 8 Alachua             | 0.00            | 0.00              | \$0                | \$0               | \$0                | \$0               | \$0              | \$0               | \$0                | \$0               | \$0                | \$0               |
| Baker                 | 0.00            | 0.00              | \$0                | \$0               | \$0                | \$0               | \$0              | \$0               | \$0                | \$0               | \$0                | \$0               |
| Bradford              | 0.00            | 0.00              | \$0                | \$0               | \$0                | \$0               | \$0              | \$0               | \$0                | \$0               | \$0                | \$0               |
| Gilchrist             | 0.00            | 0.00              | \$0                | \$0               | \$0                | \$0               | \$0              | \$0               | \$0                | \$0               | \$0                | \$0               |
| Levy                  | 0.00            | 0.00              | \$0                | \$0               | \$0                | \$0               | \$0              | \$0               | \$0                | \$0               | \$0                | \$0               |
| Union                 | 0.00            | 0.00              | \$0                | \$0               | \$0                | \$0               | \$0              | \$0               | \$0                | \$0               | \$0                | \$0               |
| <b>Circuit Total</b>  | <b>0.00</b>     | <b>0.00</b>       | <b>\$0</b>         | <b>\$0</b>        | <b>\$0</b>         | <b>\$0</b>        | <b>\$0</b>       | <b>\$0</b>        | <b>\$0</b>         | <b>\$0</b>        | <b>\$0</b>         | <b>\$0</b>        |
| 9 Orange              | 0.00            | 0.00              | \$0                | \$0               | \$0                | \$0               | \$52,029         | \$0               | (\$52,029)         | \$0               | \$0                | \$0               |
| Osceola               | 0.00            | 0.00              | \$0                | \$0               | \$0                | \$0               | \$15,781         | \$0               | \$0                | \$0               | \$15,781           | \$0               |
| <b>Circuit Total</b>  | <b>0.00</b>     | <b>0.00</b>       | <b>\$0</b>         | <b>\$0</b>        | <b>\$0</b>         | <b>\$0</b>        | <b>\$67,810</b>  | <b>\$0</b>        | <b>(\$52,029)</b>  | <b>\$0</b>        | <b>\$15,781</b>    | <b>\$0</b>        |
| 10 Hardee             | 0.00            | 0.00              | \$0                | \$0               | \$0                | \$0               | \$15,822         | \$300             | \$0                | \$0               | \$15,822           | \$300             |
| Highlands             | 0.00            | 0.00              | \$0                | \$0               | \$0                | \$0               | \$58,980         | \$0               | \$0                | \$0               | \$58,980           | \$0               |
| Polk                  | 0.00            | 0.00              | \$0                | \$0               | \$0                | \$0               | \$1,040          | \$61,511          | \$0                | \$0               | \$1,040            | \$61,511          |
| <b>Circuit Total</b>  | <b>0.00</b>     | <b>0.00</b>       | <b>\$0</b>         | <b>\$0</b>        | <b>\$0</b>         | <b>\$0</b>        | <b>\$75,842</b>  | <b>\$61,811</b>   | <b>\$0</b>         | <b>\$0</b>        | <b>\$75,842</b>    | <b>\$61,811</b>   |
| 11 Miami-Dade         | 15.96           | 0.00              | \$1,053,438        | \$0               | \$1,425,188        | \$0               | \$0              | \$172,561         | (\$19,895)         | (\$26,105)        | \$2,477,197        | \$146,456         |
| <b>Circuit Total</b>  | <b>15.96</b>    | <b>0.00</b>       | <b>\$1,053,438</b> | <b>\$0</b>        | <b>\$1,425,188</b> | <b>\$0</b>        | <b>\$0</b>       | <b>\$172,561</b>  | <b>(\$19,895)</b>  | <b>(\$26,105)</b> | <b>\$2,477,197</b> | <b>\$146,456</b>  |
| 12 DeSoto             | 0.00            | 0.00              | \$0                | \$0               | \$0                | \$0               | \$17,052         | \$3,492           | \$0                | \$0               | \$17,052           | \$3,492           |
| Manatee               | 0.00            | 0.00              | \$0                | \$0               | \$0                | \$0               | \$0              | \$0               | \$0                | \$0               | \$0                | \$0               |
| Sarasota              | 0.00            | 0.00              | \$0                | \$0               | \$0                | \$0               | \$16,209         | \$9,228           | \$0                | \$0               | \$16,209           | \$9,228           |
| <b>Circuit Total</b>  | <b>0.00</b>     | <b>0.00</b>       | <b>\$0</b>         | <b>\$0</b>        | <b>\$0</b>         | <b>\$0</b>        | <b>\$33,261</b>  | <b>\$12,720</b>   | <b>\$0</b>         | <b>\$0</b>        | <b>\$33,261</b>    | <b>\$12,720</b>   |
| 13 Hillsborough       | 0.00            | 0.00              | \$0                | \$0               | \$0                | \$0               | \$468,005        | \$0               | (\$39,817)         | \$0               | \$428,188          | \$0               |
| <b>Circuit Total</b>  | <b>0.00</b>     | <b>0.00</b>       | <b>\$0</b>         | <b>\$0</b>        | <b>\$0</b>         | <b>\$0</b>        | <b>\$468,005</b> | <b>\$0</b>        | <b>(\$39,817)</b>  | <b>\$0</b>        | <b>\$428,188</b>   | <b>\$0</b>        |

Source: OSCA Article V Inventory, County by County Summary, FY2000.

**EXHIBIT 2-14 (Continued)**  
**EXPERT WITNESS AND PSYCHOLOGICAL EVALUATOR FTEs AND COSTS BY CIRCUIT, FY2000**

| Circuit & Counties     | FTE          |                | Personnel \$     |                | Contractual      |                | Expense         |                  | Grant Funds        |                | Grand Total        |                  |
|------------------------|--------------|----------------|------------------|----------------|------------------|----------------|-----------------|------------------|--------------------|----------------|--------------------|------------------|
|                        | Psych. Eval. | Expert Witness | Psych. Eval.     | Expert Witness | Psych. Eval.     | Expert Witness | Psych. Eval.    | Expert Witness   | Psych. Eval.       | Expert Witness | Psych. Eval.       | Expert Witness   |
| <b>14</b> Bay          | 0.00         | 0.00           | \$0              | \$0            | \$0              | \$0            | \$0             | \$0              | \$0                | \$0            | \$0                | \$0              |
| Calhoun                | 0.00         | 0.00           | \$0              | \$0            | \$0              | \$0            | \$0             | \$0              | \$0                | \$0            | \$0                | \$0              |
| Gulf                   | 0.00         | 0.00           | \$0              | \$0            | \$0              | \$0            | \$0             | \$0              | \$0                | \$0            | \$0                | \$0              |
| Holmes                 | 0.00         | 0.00           | \$0              | \$0            | \$0              | \$0            | \$0             | \$0              | \$0                | \$0            | \$0                | \$0              |
| Jackson                | 0.00         | 0.00           | \$0              | \$0            | \$0              | \$0            | \$0             | \$0              | \$0                | \$0            | \$0                | \$0              |
| Washington             | 0.00         | 0.00           | \$0              | \$0            | \$0              | \$0            | \$0             | \$0              | \$0                | \$0            | \$0                | \$0              |
| <b>Circuit Total</b>   | <b>0.00</b>  | <b>0.00</b>    | <b>\$0</b>       | <b>\$0</b>     | <b>\$0</b>       | <b>\$0</b>     | <b>\$0</b>      | <b>\$0</b>       | <b>\$0</b>         | <b>\$0</b>     | <b>\$0</b>         | <b>\$0</b>       |
| <b>15</b> Palm Beach   | 7.00         | 0.00           | \$435,209        | \$0            | \$65,295         | \$0            | \$15,699        | \$0              | \$0                | \$0            | \$628,209          | \$0              |
| <b>Circuit Total</b>   | <b>7.00</b>  | <b>0.00</b>    | <b>\$435,209</b> | <b>\$0</b>     | <b>\$65,295</b>  | <b>\$0</b>     | <b>\$15,699</b> | <b>\$0</b>       | <b>\$0</b>         | <b>\$0</b>     | <b>\$628,209</b>   | <b>\$0</b>       |
| <b>16</b> Monroe       | 0.00         | 0.00           | \$0              | \$0            | \$25,093         | \$1,123        | \$0             | \$0              | \$0                | \$0            | \$25,093           | \$1,123          |
| <b>Circuit Total</b>   | <b>0.00</b>  | <b>0.00</b>    | <b>\$0</b>       | <b>\$0</b>     | <b>\$25,093</b>  | <b>\$1,123</b> | <b>\$0</b>      | <b>\$0</b>       | <b>\$0</b>         | <b>\$0</b>     | <b>\$25,093</b>    | <b>\$1,123</b>   |
| <b>17</b> Broward      | 10.50        | 0.00           | \$521,533        | \$0            | \$635,456        | \$0            | \$29,089        | \$167,675        | (\$143,516)        | \$0            | \$1,332,516        | \$167,675        |
| <b>Circuit Total</b>   | <b>10.50</b> | <b>0.00</b>    | <b>\$521,533</b> | <b>\$0</b>     | <b>\$635,456</b> | <b>\$0</b>     | <b>\$29,089</b> | <b>\$167,675</b> | <b>(\$143,516)</b> | <b>\$0</b>     | <b>\$1,332,516</b> | <b>\$167,675</b> |
| <b>18</b> Brevard      | 3.00         | 0.00           | \$140,280        | \$0            | \$0              | \$0            | \$5,311         | \$0              | \$0                | \$0            | \$223,340          | \$93,511         |
| Seminole               | 0.00         | 0.00           | \$0              | \$0            | \$0              | \$0            | \$0             | \$360,534        | \$0                | \$0            | \$0                | \$431,584        |
| <b>Circuit Total</b>   | <b>3.00</b>  | <b>0.00</b>    | <b>\$140,280</b> | <b>\$0</b>     | <b>\$0</b>       | <b>\$0</b>     | <b>\$5,311</b>  | <b>\$360,534</b> | <b>\$0</b>         | <b>\$0</b>     | <b>\$223,340</b>   | <b>\$525,095</b> |
| <b>19</b> Indian River | 0.00         | 0.00           | \$0              | \$0            | \$0              | \$0            | \$0             | \$0              | \$0                | \$0            | \$0                | \$0              |
| Martin                 | 0.00         | 0.00           | \$0              | \$0            | \$0              | \$0            | \$0             | \$0              | \$0                | \$0            | \$0                | \$0              |
| Okeechobee             | 0.00         | 0.00           | \$0              | \$0            | \$0              | \$0            | \$0             | \$0              | \$0                | \$0            | \$0                | \$0              |
| St. Lucie              | 0.00         | 0.00           | \$0              | \$0            | \$0              | \$0            | \$0             | \$0              | \$0                | \$0            | \$0                | \$0              |
| <b>Circuit Total</b>   | <b>0.00</b>  | <b>0.00</b>    | <b>\$0</b>       | <b>\$0</b>     | <b>\$0</b>       | <b>\$0</b>     | <b>\$0</b>      | <b>\$0</b>       | <b>\$0</b>         | <b>\$0</b>     | <b>\$0</b>         | <b>\$0</b>       |
| <b>20</b> Charlotte    | 0.00         | 0.00           | \$0              | \$0            | \$0              | \$0            | \$0             | \$0              | \$0                | \$0            | \$0                | \$0              |
| Collier                | 0.00         | 0.00           | \$0              | \$0            | \$0              | \$0            | \$17,494        | \$51,504         | \$0                | \$0            | \$17,494           | \$51,504         |
| Glades                 | 0.00         | 0.00           | \$0              | \$0            | \$0              | \$0            | \$0             | \$0              | \$0                | \$0            | \$0                | \$0              |
| Hendry                 | 0.00         | 0.00           | \$0              | \$0            | \$0              | \$0            | \$0             | \$0              | \$0                | \$0            | \$0                | \$0              |
| Lee                    | 0.00         | 0.00           | \$0              | \$0            | \$0              | \$0            | \$0             | \$0              | \$0                | \$0            | \$0                | \$0              |
| <b>Circuit Total</b>   | <b>0.00</b>  | <b>0.00</b>    | <b>\$0</b>       | <b>\$0</b>     | <b>\$0</b>       | <b>\$0</b>     | <b>\$17,494</b> | <b>\$51,504</b>  | <b>\$0</b>         | <b>\$0</b>     | <b>\$17,494</b>    | <b>\$51,504</b>  |

Source: OSCA Article V Inventory, County by County Summary, FY2000.

Florida court rules provide that expert witnesses shall be allowed “a witness fee in such reasonable amount as the court may determine.” However, these fees are established by administrative order and differ from circuit to circuit. In the Sixth Circuit, which includes Pasco and Pinellas counties, fees range from \$35 per hour for private investigators authorized by the court, to a flat fee of \$400 for psychological or competency evaluations. In contrast, by Second Circuit administrative order, witness or other fee for services under court order that exceed \$150 per hour or that could exceed a total fee of \$1,500 must be specifically pre-approved by the court, but no recommended or required hourly rates are specified in the order.

#### **2.4.3 Stakeholder Entity Input**

The Trial Court Budget Commission (TCBC) has determined witnesses and evaluators ordered by the court are an essential element to ensure due process as part of the courts system proper.

In January 2003, the Commission on Trial Court Performance and Accountability released its report and recommendations relative to court-appointed expert witnesses, which includes expert witnesses, psychological evaluations, and other witnesses ordered by the courts. Recommendations in the report include:

- Definition of expert witness should be, “An expert witness is a person who, by reason of his or her special knowledge, skill, experience, training, or education in a particular subject, is qualified to express an opinion or give expert testimony within that particular area of expertise.”
- The Supreme Court should recommend to the Legislature that it should amend 29.004, F.S., to explicitly provide that “Court-appointed Expert Witnesses” is one of the essential elements of trial courts that will be funded by the state within the trial courts budget.
- The Supreme Court should recommend to the Legislature that it should consider adopting a general statute governing the appointment of expert witnesses at public expense, and the statute

should establishment an entitlement to appointment of an expert witness in at least the following circumstances:

- Where necessary to effectuate a constitutional right or protection;
  - Where required, either expressly or by implication, in statute or court rule;
  - Where deemed necessary by a court in the exercise of its inherent authority or jurisdiction; or
  - Where necessary to determine significant rights or issues in a case involving a party who is indigent.
- The Commission on Trial Court Performance and Accountability should appoint a representative group of judges, court administrators, and practitioners to conduct a best business practices review of all aspects of the redefined court-appointed expert witness element.
  - The Commission should immediately request that OSCA implement a procedure for collection of data from each circuit regarding the utilization and payment of court-appointed expert witnesses for a test period of six months commencing January 1, 2003 or as soon thereafter as possible.

#### **2.4.4 National Best Practices**

Information regarding witness or evaluator best practices could not be identified. However, the National Center for State Courts publication “Creating the Judicial Branch: The Unfinished Reform” (1999) noted that “there is mounting pressure on judges to exclude ‘junk science’ from getting to juries, or to call their own experts. This is another example of how the public expects judges to stand for the integrity of the adversarial process, rather than to accede to attorney game plans.”

Additionally, the Bureau of Justice Assistance of the U.S. Department of Justice, in its “Trial Court Performance Standards,” set out one standard relating to witnesses and/or evaluators. Standard 2.2, “Compliance with Schedules,” requires that trial courts provide information and services in a timely and expeditious manner. According to the standard, “services provided to those within the court’s jurisdiction may include . . .



mental health evaluation for criminal defendants.” The standard also requires trial courts to disburse funds from their budgets, including to witnesses as needed, in a timely fashion.

#### **2.4.5 Other State Practices**

California recently adopted standards for the education, experience, and training that are required of all court-appointed child custody evaluators.

New Jersey does not have strong centralized coordination of witnesses or evaluators at the state level. Typically, witnesses are paid by either the plaintiff or defendant. Court-appointed witnesses are rare. Evaluators are funded by the state-appropriated district budget. Appropriations for evaluators are set at the district level.

Standard Four of the Washington Public Defender Association Standards for Public Defense Services (October 1989), “Responsibility for Expert Witnesses,” asserts that reasonable compensation for expert witnesses necessary to preparation and presentation of the defense case shall be provided. According to the standard, expert witness fees should be maintained and allocated from funds separate from those provided for defender services. Additionally, the defense should be free to retain the expert of its choosing and in no cases should be forced to select experts from a list pre-approved by either the court or the prosecution.

#### **2.4.6 Recommendations**

##### **RECOMMENDATION 2.4-1:**

**Develop a general statute governing the use of witnesses and evaluators whether they are appointed by the court, state attorneys, public defenders, or conflict counsel. The statute should address public expense eligibility, types of witnesses/evaluators and situations where they shall or may be used.**

The use of expert witnesses or psychological evaluation is addressed in numerous Florida statutes and rules. For example, MGT’s Phase 1 report identified five statutory mandates for witnesses/evaluators and 10 statutory authorizations. In a report

submitted on January 28, 2003, the Commission on Trial Court Performance and Accountability (TCP&A) stated that court appointment of expert witnesses alone is addressed in 14 chapters and more than 20 separate sections of the statutes. A copy of the TCP&A document is attached as Appendix D1 to this report. Despite the numerous statutory references, no comprehensive definition of witnesses/evaluators exists in either statute or rule and there is no codification of the constitutional principles that define circumstances where witnesses/evaluators are to be provided at public expense. Funding, management and control of witnesses/evaluators, whether appointed by the court, state attorneys, public defenders or conflict counsel would be enhanced if the definitions and the numerous provisions were incorporated in a general statute.

The recommended statute should define specific types of witnesses and evaluators, their qualifications, and when the services shall or may be used. It should also specify when witnesses/evaluators are to be provided at public expense. For example, the statute should establish that there is entitlement to appointment of a witness/evaluator when necessary to protect a constitutional right, when mandated by statute, and/or when necessary to determine significant rights or issues in a case involving an indigent.

Implementation of this recommendation will necessitate legislation to establish the general statute and resolve any conflicts or missing issues.

#### **RECOMMENDATION 2.4-2**

##### **Assign responsibility for funding, managing and coordinating witnesses and evaluators to the entity requesting the service for each case.**

The entity requesting and using the services of witnesses and psychological, psychiatric, medical and social evaluators should have financial and management responsibility. Currently, the requesting entity generally manages and coordinates witnesses/evaluators but the counties have financial responsibility. This split responsibility can result in lack of control and possibly excessive use of the services.

Implementation of this recommendation will necessitate that the Legislature work with officials of the courts, the public defenders, and the state attorneys to establish criteria and procedures for assigning responsibilities among the three entities.

#### **RECOMMENDATION 2.4-3**

##### **Develop standardized processes for managing and using witnesses and interpreters including public expense eligibility; in-house vs. contracted; contractor selection, management and coordination; fee schedules; model contract provisions; oversight and evaluation; and invoice review and approval.**

Guidelines regarding witnesses/evaluators should be established that are applicable to all circuits and entities. The following issues should be addressed:

- procedures and criteria for determining those eligible to receive witness/evaluator services at public expense including types of

matters and proceedings. These procedures and criteria should build upon the statute suggested in Recommendation 2.4-1;

- criteria regarding employment of in-house staff to provide services versus the use of contractors. The primary criterion for using in-house staff should be an annual cost that is lower than the contractor costs. This requires not only a burdened compensation rate that is lower but also high staff productivity. To maintain high productivity, the workload volume must be sufficient and resource management procedures must be effective;
- procedures for selecting, managing and coordinating contracted expert witnesses and evaluators. These procedures should include establishment of witness/evaluator qualifications, solicitation of firms/individuals through an RFP or other form of general pronouncement, an objective selection process, and establishment and management of a service agreement that ensures cost-effective services;
- fee schedules for various types of expert and evaluator services with adjustments for local marketplace conditions, where appropriate;
- contractual provisions regarding procedural requirements, contract duration, billing for fees and expense reimbursement, etc.
- oversight and evaluation of services; and
- review and approval of contractor invoices.

Each circuit should also assemble a list of recommended expert witnesses and evaluators. These individuals/firms should be categorized by type and the list distributed to all interested parties.

Implementation of this recommendation will require that the courts, the public defenders and the state attorneys each establish a task force or committee to address this issue. The TCP&A Commission may be the appropriate representative for the courts and the FPDA and the Florida Prosecuting Attorneys Association (FPAA) could help establish similar bodies for the other entities. To help coordinate and ensure consistency among the three entities, we suggest an initial joint meeting of the task forces to help define the objectives, scope and approach to the effort and to help clarify any issues regarding the assignments of management and financial responsibilities as described in recommendation 2.4-2. Subsequent joint meetings should be held to compare and coordinate the individual results and to ensure any differences or inconsistencies are minimized.

**RECOMMENDATION 2.4-4:**

**Establish monthly witness and evaluator budgets for each entity within each circuit and monitor expenditures and workload against those budgets. OSCA and JAC should prepare and issue monthly, statewide, comparative reports for all circuits and distribute to each circuit and the Legislature.**

Each entity in each circuit should develop a month-by-month budget for the costs of witnesses and evaluators that they will be utilizing. This means the court, the state attorney and the public defender in each circuit would have a witness/evaluator budget that includes contractor costs as well as any in-house staff costs for service provision and/or for management and coordination. Public defender budgets should also include costs for witnesses/evaluators that will be requested by conflict counsel. The budgets will provide a basis for managing and controlling the significant costs of these services that the state will be funding upon implementation of Revision 7.

The budgets should be based upon historical expenditures, with reductions for policy and process improvements. The budgets for the first fiscal year will be very difficult to establish accurately, however, since current financial records generally do not identify the service requesters, and current costs may not be recorded in a consistent manner from county to county, even within the same circuit.

Actual expenditures during the year should be monitored through monthly reports that also include statistics regarding the number and types of witnesses/evaluators used, categorized by court division and case type. These actual results should be compared to the monthly and year-to-date budgets. The court in each circuit should provide the information to OSCA and each state attorney and public defender should provide the information to the Justice Administrative Commission (JAC). These organizations would then use this information to prepare statewide comparative reports encompassing all circuits. Copies of the reports will be distributed to the respective entities within each circuit as well as the legislature.

**RECOMMENDATION 2.4-5:**

**Establish witness/evaluator contingency budgets within OSCA and JAC to ensure funds are available to meet unforeseen requirements in any circuit such as high-profile or very complex cases. Initially, approximately five percent of the total expected statewide interpreter budget should be set aside for the contingency. OSCA or a standing committee of public defenders should review any requests for use of these funds. If approved, the allocation should be highlighted on the monthly statewide comparative report.**

In addition to the entity budgets within each circuit, OSCA and JAC should develop and manage witness/evaluator contingency budgets. The purpose of these budgets is to ensure funds are available to meet unforeseeable requirements in any of the circuits. These requirements are most often the result of high profile and/or very complex cases that require unusually large expenditures. Since these are exceptions that do not occur in each circuit each year, they are not and should not be reflected in normal budgets. However, the fees and expenses for these cases must be paid when they do occur.

The amount of the witness/evaluator contingency budget should be determined like any other budgetary item – through analysis of past expenditures with adjustments for expected future changes. Since comprehensive, historical data regarding each circuit's witness/evaluator expenditures for each entity for each type of case is not available, we suggest the contingency budget be initially established at five percent of the total budgeted amount. In other words, 95 percent of the statewide total should be reflected in the circuit budgets.

If and when a circuit court, state attorney or public defender must fund a high-cost case, they should submit a request to OSCA or JAC for a contingency fund allocation. The request should identify the case, the reason for the extraordinary levels of expenditure, the amount of the actual costs incurred, the normal cost for cases of this type, and the availability of funds in the regular budget for the expenditure.

OSCA and standing committees of state attorneys and public defenders should be responsible for managing the respective contingency fund allocations so the budgets are not exceeded. They should evaluate each request to ensure that the item clearly matches the purpose and intent of the contingency fund. They may, for example, establish a criterion that the cost should be at least five times the normal expenditure level for cases of this type. Any requests approved by OSCA or the standing committees should be highlighted on the respective monthly statewide comparative reports in Recommendation 2.4-4. The circumstances precipitating the unforeseen requirement should be considered during the next budget development process and actions taken to avoid recurrence, if at all possible.

#### **2.4.7 Potential Cost Reduction**

We estimate court witness/evaluator costs could be reduced by two to five percent through implementation of the five recommendations just described. This estimate is based upon our experience with similar studies where standardized policies and procedures are established to help guide the decision making of multiple independent organizational entities. (In this case, decisions regarding witnesses/evaluators are being made by 60 separate entities across the state.) The change in budgetary responsibility will have an even greater impact on costs. Currently, each entity decides when witnesses/evaluators will be used and the amount to be spent while the counties are responsible for providing the funds. Upon implementation of Revision 7, funding will become the responsibility of state, with management control responsibility delegated to each of the entities in each of the circuits. With one entity having both the decision-making

and funding responsibility and with a specific budget item that is monitored monthly, our experience indicates it is realistic to expect an estimated cost reduction of two to five percent.

## **2.5 Jury Management**

### **2.5.1 Definition/Description**

Both the clerks of court and court administrators provide jury management services. The statutorily mandated services provided by court clerks include issuing summons, providing reimbursement for allowable juror expenses and processing necessary paperwork. In addition, some court clerks perform other duties such as creating the annual jury list and taking actions as directed by the court regarding persons who fail to appear.

County costs for providing these services as reported in the FY 2000 annual financial reports are about \$3.4 million. However, it is unclear if these reported costs include state reimbursed expenditures, as provided in sections 40.26 and 40.24, F.S.

### **2.5.2 Program Delivery Variations**

In April 1990 the Office of the Auditor General issued a performance audit of petit jury management activities performed by Florida courts that was critical of jury management practices in local court systems. The auditor general found that jury management procedures varied widely and that many counties could improve the efficiency of their jury management practices, resulting in potential savings of as much of 25 percent of overall juror costs to the courts. In response to the performance audit, then-Chief Justice Leander Shaw created the Jury Management Steering Committee to make recommendations relative to the efficient and effective use of jurors in Florida's courts, and later instituted the jury management program. The minimum goals set by

Justice Shaw included mandatory reductions in total juror days paid, a maximum number of jurors to be summoned for any trial, a plan in each circuit to implement cost reduction goals, and jury activity reporting requirements.

As part of the jury management program, courts in the state are charged with several activities, including:

- Develop support of the judiciary;
- Cultivate a contact person with each judge who can provide accurate information on pending trials;
- Develop effective procedures for jury operations;
- Develop an efficient plan of action for assigning jurors to courtrooms or judges;
- Summon prospective jurors economically;
- Treat reporting jurors professionally and deal effectively with reporting issues; and
- Ensure the swift and courteous discharge of jurors.

Implementation of the jury management program resulted in juror compensation savings of \$3,331,203 for FY1994, according to the Office of the State Courts Administrator.

Though these procedures are employed throughout the state, the entity performing the activities varies from circuit to circuit. In 16 of the 20 circuits, the court administration office performs jury oversight, including jury support and coordination, while the clerk of court office performs jury processing, including juror summons and payment of juror expenses. Jury management in the remaining four circuits, including the 17<sup>th</sup> Circuit, is performed almost entirely by the court administrator's office, as depicted in Exhibit 2-15.

### **2.5.3 Stakeholder Entity Input**

In May 2001, the Judicial Management Council's Jury Innovations Committee released its final report, which detailed 48 recommendations for improving the state's jury system, after nearly two years of research. The committee was created by the Florida Supreme Court to review the existing Florida jury system and evaluate the need for improvements to the system, and was divided into three subcommittees: Management and Administration, In-Court Procedures, and Juror Treatment and Compensation. A sample of the recommendations of each of the subcommittees is included below.

#### ***Management and Administration***

- Courts should maintain standard panel sizes, but in county court, standard panel sizes should be raised from 14 to 16 for domestic violence and driving under the influence cases;
- Courts should develop and adhere to reasonable policies for summons enforcement, non-compliant jurors, and postponements of jury duty;
- More resources should be expended to correct errors in the juror source list, and 322.17(2), F.S., should be amended to remove the ten dollar fee for obtaining a replacement driver's license to reflect a change of name or address;
- Greatly reduce the list of statutory exemptions from jury duty; and
- Develop and make available to all courts a standard jury orientation guide outlining best practices.

#### ***In-Court Procedures***

- Develop standard juror questionnaires for both civil and criminal cases;
- Jury size in criminal and civil cases should not be reduced;
- Pursuant to 45.075, F.S., expedited civil trials (trials that are limited to one day but may involve a jury) should be encouraged through attorneys notifying their clients in writing of the applicability of the expedited trial procedure;



- A comprehensive study of peremptory challenges should be conducted;
- The civil rule that requires a witness must be a greater distance than 100 miles from the place of trial as a prerequisite for use of that person's deposition at trial should be repealed;
- Deposition summaries should be allowed in civil, but not criminal, trials;
- Copies of written jury instructions should be given to jurors for use during deliberations; and
- The Supreme Court should develop specific criteria for denying a read-back request.

***Juror Treatment and Compensation Recommendations***

- Florida should adopt a juror bill of rights through Supreme Court rule or by administrative order of the Chief Justice;
- Florida should pay for juror parking in all counties;
- American Bar Association Standard 13: *Juror Use* should be adopted as a rule of judicial administration;
- Jury service recommendations of the Southeast Florida Center on Aging and the Supreme Court Commission on Fairness relating to elder citizens and citizens with disabilities should be adopted by the Supreme Court;
- Juror per diem rates should be reviewed every five years by the Legislature and any increase should be tied to the rate of inflation;
- There should not be a statewide law requiring employers to pay their employees while serving on jury duty; and
- Protecting a juror's right to privacy must be balanced against the rights of plaintiffs and defendants to a fair trial.

The committee presented its recommendations to the Supreme Court in May 2001 with a request they be "implemented expeditiously by Supreme Court rule, bypassing the normal rule process currently employed." The report was formally argued before the Supreme Court on February 4, 2002 and a final decision is currently pending.

**Recommendations to Increase Efficiency/Reduce Costs of  
Essential Judicial System Activities**

**EXHIBIT 2-16  
COUNTY EXPENDITURES, FY2000, FOR JURY MANAGEMENT BY CIRCUIT, BY  
COUNTY, AND PER CAPITA**

| <b>Circuit &amp; Counties</b> | <b>Clerk of Court<br/>Expenditures</b> | <b>Court Admin.<br/>Expenditures</b> | <b>Total Jury<br/>Management<br/>Costs</b> | <b>Population</b> | <b>Costs per<br/>capita</b> |
|-------------------------------|--|--------------------------------------|--|-------------------|-----------------------------|
| <b>1</b> Escambia             | \$115,331                              |                                      | \$115,331                                  | 294,410           | \$0.39                      |
| Okaloosa                      | \$0                                    | \$102,806                            | \$102,806                                  | 170,498           | \$0.60                      |
| Santa Rosa                    | \$36,853                               |                                      | \$36,853                                   | 117,743           | \$0.31                      |
| Walton                        | \$14,715                               | \$2,000                              | \$16,715                                   | 40,601            | \$0.41                      |
| <b>Circuit Total</b>          | <b>\$166,900</b>                       | <b>\$104,806</b>                     | <b>\$271,706</b>                           | <b>623,252</b>    | <b>\$0.44</b>               |
| <b>2</b> Franklin             | \$7,918                                |                                      | \$7,918                                    | 11,057            | \$0.72                      |
| Gadsden                       | \$7,906                                |                                      | \$7,906                                    | 45,087            | \$0.18                      |
| Jefferson                     | \$0                                    |                                      | \$0  | 12,902            | \$0.00                      |
| Leon                          | \$111,402                              |                                      | \$111,402                                  | 239,452           | \$0.47                      |
| Liberty                       | \$10,008                               |                                      | \$10,008                                   | 7,021             | \$1.43                      |
| Wakulla                       | \$10,827                               |                                      | \$10,827                                   | 22,863            | \$0.47                      |
| <b>Circuit Total</b>          | <b>\$148,061</b>                       |                                      | <b>\$148,061</b>                           | <b>338,382</b>    | <b>\$0.44</b>               |
| <b>3</b> Columbia             | \$13,772                               | \$15,261                             | \$29,033                                   | 56,513            | \$0.51                      |
| Dixie                         | \$3,212                                |                                      | \$3,212                                    | 13,827            | \$0.23                      |
| Hamilton                      | \$4,453                                |                                      | \$4,453                                    | 13,327            | \$0.33                      |
| Lafayette                     | \$2,530                                |                                      | \$2,530                                    | 7,022             | \$0.36                      |
| Madison                       | \$0                                    |                                      | \$0  | 18,733            | \$0.00                      |
| Suwannee                      | \$86,954                               |                                      | \$86,954                                   | 34,844            | \$2.50                      |
| Taylor                        | \$38,291                               |                                      | \$38,291                                   | 19,256            | \$1.99                      |
| <b>Circuit Total</b>          | <b>\$149,212</b>                       | <b>\$15,261</b>                      | <b>\$164,473</b>                           | <b>163,522</b>    | <b>\$1.01</b>               |
| <b>4</b> Clay                 | \$6,722                                |                                      | \$6,722                                    | 140,814           | \$0.05                      |
| Duval                         | \$194,678                              |                                      | \$194,678                                  | 778,879           | \$0.25                      |
| Nassau                        | \$18,428                               |                                      | \$18,428                                   | 57,663            | \$0.32                      |
| <b>Circuit Total</b>          | <b>\$219,828</b>                       |                                      | <b>\$219,828</b>                           | <b>977,356</b>    | <b>\$0.22</b>               |
| <b>5</b> Citrus               | \$71,287                               |                                      | \$71,287                                   | 118,085           | \$0.60                      |
| Hernando                      | \$69,046                               |                                      | \$69,046                                   | 130,802           | \$0.53                      |
| Lake                          | \$65,940                               |                                      | \$65,940                                   | 210,528           | \$0.31                      |
| Marion                        | \$18,432                               |                                      | \$18,432                                   | 258,916           | \$0.07                      |
| Sumter                        | \$18,349                               |                                      | \$18,349                                   | 53,345            | \$0.34                      |
| <b>Circuit Total</b>          | <b>\$243,053</b>                       |                                      | <b>\$243,053</b>                           | <b>771,676</b>    | <b>\$0.31</b>               |
| <b>6</b> Pasco                | \$82,894                               |                                      | \$82,894                                   | 344,765           | \$0.24                      |
| Pinellas                      | \$141,535                              |                                      | \$141,535                                  | 921,482           | \$0.15                      |
| <b>Circuit Total</b>          | <b>\$224,429</b>                       |                                      | <b>\$224,429</b>                           | <b>1,266,247</b>  | <b>\$0.18</b>               |
| <b>7</b> St. Johns            | \$36,977                               |                                      | \$36,977                                   | 123,135           | \$0.30                      |
| Volusia                       | \$98,059                               |                                      | \$98,059                                   | 443,343           | \$0.22                      |
| Flagler                       | \$0                                    |                                      | \$0  | 49,832            | \$0.00                      |
| Putnam                        | \$44,210                               |                                      | \$44,210                                   | 70,423            | \$0.63                      |
| <b>Circuit Total</b>          | <b>\$179,245</b>                       |                                      | <b>\$179,245</b>                           | <b>686,733</b>    | <b>\$0.26</b>               |
| <b>8</b> Alachua              | \$44,395                               |                                      | \$44,395                                   | 217,955           | \$0.20                      |
| Baker                         | \$14,649                               |                                      | \$14,649                                   | 22,259            | \$0.66                      |
| Bradford                      | \$5,401                                |                                      | \$5,401                                    | 26,088            | \$0.21                      |
| Gilchrist                     | \$3,877                                |                                      | \$3,877                                    | 14,437            | \$0.27                      |
| Levy                          | \$26,307                               |                                      | \$26,307                                   | 34,450            | \$0.76                      |
| Union                         | \$7,476                                |                                      | \$7,476                                    | 13,442            | \$0.56                      |
| <b>Circuit Total</b>          | <b>\$102,105</b>                       |                                      | <b>\$102,105</b>                           | <b>328,631</b>    | <b>\$0.31</b>               |

**Recommendations to Increase Efficiency/Reduce Costs of  
Essential Judicial System Activities**

**EXHIBIT 2-16 (Continued)  
COUNTY EXPENDITURES, FY2000, FOR JURY MANAGEMENT BY CIRCUIT, BY  
COUNTY, AND PER CAPITA**

| Circuit & Counties     | Clerk of Court<br>Expenditures | Court Admin.<br>Expenditures | Total Jury<br>Management<br>Costs | Population        | Costs per<br>capita |
|------------------------|--------------------------------|------------------------------|-----------------------------------|-------------------|---------------------|
| <b>9</b> Orange        | \$0                            | \$128,561                    | \$128,561                         | 896,344           | \$0.14              |
| Osceola                | \$0                            | \$114,136                    | \$114,136                         | 172,493           | \$0.66              |
| <b>Circuit Total</b>   | <b>\$0</b>                     | <b>\$242,697</b>             | <b>\$242,697</b>                  | <b>1,068,837</b>  | <b>\$0.23</b>       |
| <b>10</b> Hardee       | \$0                            |                              | \$0                               | 26,938            | \$0.00              |
| Highlands              | \$40,832                       |                              | \$40,832                          | 87,366            | \$0.47              |
| Polk                   | \$78,716                       |                              | \$78,716                          | 483,924           | \$0.16              |
| <b>Circuit Total</b>   | <b>\$119,548</b>               |                              | <b>\$119,548</b>                  | <b>598,228</b>    | <b>\$0.20</b>       |
| <b>11</b> Miami-Dade   | \$53,739                       | \$607,452                    | \$661,191                         | 2,253,362         | \$0.29              |
| <b>Circuit Total</b>   | <b>\$53,739</b>                | <b>\$607,452</b>             | <b>\$661,191</b>                  | <b>2,253,362</b>  | <b>\$0.29</b>       |
| <b>12</b> DeSoto       | \$33,832                       |                              | \$33,832                          | 32,209            | \$1.05              |
| Manatee                | \$49,600                       |                              | \$49,600                          | 264,002           | \$0.19              |
| Sarasota               | \$73,245                       |                              | \$73,245                          | 325,957           | \$0.22              |
| <b>Circuit Total</b>   | <b>\$156,677</b>               |                              | <b>\$156,677</b>                  | <b>622,168</b>    | <b>\$0.25</b>       |
| <b>13</b> Hillsborough | \$236,849                      |                              | \$236,849                         | 998,948           | \$0.24              |
| <b>Circuit Total</b>   | <b>\$236,849</b>               |                              | <b>\$236,849</b>                  | <b>998,948</b>    | <b>\$0.24</b>       |
| <b>14</b> Bay          | \$31,458                       |                              | \$31,458                          | 148,217           | \$0.21              |
| Calhoun                | \$3,982                        |                              | \$3,982                           | 13,017            | \$0.31              |
| Gulf                   | \$2,021                        |                              | \$2,021                           | 13,332            | \$0.15              |
| Holmes                 | \$20,491                       |                              | \$20,491                          | 18,564            | \$1.10              |
| Jackson                | \$49,943                       |                              | \$49,943                          | 46,755            | \$1.07              |
| Washington             | \$2,340                        |                              | \$2,340                           | 20,973            | \$0.11              |
| <b>Circuit Total</b>   | <b>\$110,235</b>               |                              | <b>\$110,235</b>                  | <b>260,858</b>    | <b>\$0.42</b>       |
| <b>15</b> Palm Beach   | \$42,287                       | \$217,994                    | \$260,281                         | 1,131,184         | \$0.23              |
| <b>Circuit Total</b>   | <b>\$42,287</b>                | <b>\$217,994</b>             | <b>\$260,281</b>                  | <b>1,131,184</b>  | <b>\$0.23</b>       |
| <b>16</b> Monroe       | \$54,554                       | \$15,497                     | \$70,051                          | 79,589            | \$0.88              |
| <b>Circuit Total</b>   | <b>\$54,554</b>                | <b>\$15,497</b>              | <b>\$70,051</b>                   | <b>79,589</b>     | <b>\$0.88</b>       |
| <b>17</b> Broward      | \$0                            | \$269,091                    | \$269,091                         | 1,623,018         | \$0.17              |
| <b>Circuit Total</b>   | <b>\$0</b>                     | <b>\$269,091</b>             | <b>\$269,091</b>                  | <b>1,623,018</b>  | <b>\$0.17</b>       |
| <b>18</b> Brevard      | \$0                            |                              | \$0                               | 476,230           | \$0.00              |
| Seminole               | \$34,877                       |                              | \$34,877                          | 365,196           | \$0.10              |
| <b>Circuit Total</b>   | <b>\$34,877</b>                |                              | <b>\$34,877</b>                   | <b>841,426</b>    | <b>\$0.04</b>       |
| <b>19</b> Indian River | \$46,240                       |                              | \$46,240                          | 112,947           | \$0.41              |
| Martin                 | \$39,719                       |                              | \$39,719                          | 126,731           | \$0.31              |
| Okeechobee             | \$0                            |                              | \$0                               | 35,910            | \$0.00              |
| St. Lucie              | \$89,129                       |                              | \$89,129                          | 192,695           | \$0.46              |
| <b>Circuit Total</b>   | <b>\$175,088</b>               |                              | <b>\$175,088</b>                  | <b>468,283</b>    | <b>\$0.37</b>       |
| <b>20</b> Charlotte    | \$144,549                      |                              | \$144,549                         | 141,627           | \$1.02              |
| Collier                | \$62,134                       |                              | \$62,134                          | 251,377           | \$0.25              |
| Glades                 | \$14,533                       |                              | \$14,533                          | 10,576            | \$1.37              |
| Hendry                 | \$19,918                       |                              | \$19,918                          | 36,210            | \$0.55              |
| Lee                    | \$53,264                       |                              | \$53,264                          | 440,888           | \$0.12              |
| <b>Circuit Total</b>   | <b>\$294,399</b>               |                              | <b>\$294,399</b>                  | <b>880,678</b>    | <b>\$0.33</b>       |
| <b>Grand Total</b>     | <b>\$2,711,085</b>             | <b>\$1,472,798</b>           | <b>\$4,183,883</b>                | <b>15,982,378</b> | <b>\$0.26</b>       |

Source: FY 2000 annual financial reports.

#### **2.5.4 National Best Practices**

Jury management practices in states across the country appear to be fairly similar to Florida's current system for coordinating juries. In fact, some states, including Minnesota and Arizona, have conducted studies of jury compensation, practices and procedures with recommendations similar to those developed through Florida's studies. Although there was limited information available regarding technology related to jury management, the Iowa court system employs a sophisticated computerized subsystem that includes the following functional areas:

- Jury List Maintenance,
- Juror Selection and Notification,
- Juror Attendance and Tracking,
- Jury Fiscal Operations,
- Jury Management Reports, and
- System Administration Jury Management Functions.

A recent report by the Ohio Courts Futures Commission recommended creation of a statewide jury commission in Ohio to "evaluate jury practices, establish uniform standards for jury service, foster the development of innovative jury practices, and make recommendations to the Supreme Court and the General Assembly regarding improvements in jury service," much like Florida's Jury Innovations Committee. In addition, the report recommended that courts "should make efficient use of jurors' time and make jury service as comfortable and convenient as possible."

The Bureau of Justice Assistance of the U.S. Department of Justice, in its "Trial Court Performance Standards," set out one standard relating to jury management. Standard 2.2, "Compliance with Schedules," requires that trial courts disburse funds from their budgets, including to jurors as needed, in a timely fashion.

### **2.5.5 Other State Practices**

As a result of the California Judicial Council's Task Force on Jury System Improvements, a number of statewide standards have been implemented with regard to jury management. These include:

- A statewide jury orientation video that familiarizes potential jurors with the basics of jury selection and the procedures for both civil and criminal trials.
- Compensation of \$15 per day for jury service, distributed on the second day of service and each day thereafter. The Judicial Council has a goal of raising the juror fee to \$40 a day.
- A one-day or one-trial system that specifies a juror only needs to appear for one day if he or she is not selected for trial. If a person is not chosen for trial or assigned to jury selection on the first day of service, the juror has satisfied his or her obligation for at least one year.

New Jersey has centralized jury management by using the Jury Management System, a networked database software that is used to manage jurors in all NJ courts. The software includes a uniform questionnaire, summons, and features for centralized printing and production of checks and other jury administrative functions. The system helps ensure the constitutionality of the jury process and compliance with state standards.

New Jersey has also developed a jury orientation video that is used statewide, and has increased compensation to \$40 a day for jurors that have performed three or more days of service. Jurors are compensated \$5 a day for less than three days of service.

### **2.5.6 Recommendations**

#### **RECOMMENDATION 2.5-1:**

**Streamline the juror qualification and orientation process by moving toward online Web-based processes. Standardized juror qualification forms should be developed and used by the circuits until the online processes are implemented.**

The methods used to qualify and orient jurors vary greatly from county to county and court to court. Some make very effective use of technology and some are very labor intensive with little or no use of technology. All circuits/counties should include in their technology development plans a process to obtain basic juror qualification information through a secure Web site. Citizens should be able to access the site either through their own computer or through a public computer at the courthouse. Juror orientation could also be completed through the Web site. Until a court has the equipment, infrastructure and systems needed to provide this service online, however, a standardized juror qualification form should be developed and provided to prospective jurors so they can answer all basic questions in advance, in writing. This can save significant amounts of time during voir dire.

Implementation of this recommendation will necessitate that the legislature charge OSCA with responsibility for further defining the specifications for this Web-based service. The circuit courts should then be charged with including this project in their technology development plans with a realistic timetable for funding and implementation.

#### **RECOMMENDATION 2.5-2:**

**Conduct a study to determine the feasibility of a statewide, centralized jury management system supported by one of the computerized programs currently used in other states.**

The study should first investigate the Jury Management System used in New Jersey and the subsystem used in Iowa to support certain jury management functions. The initial assessment would be to determine whether the 20 Florida circuits could use either of the networked data base systems. The study should then identify all of the functions each system supports. Other jury management software packages should also be identified and evaluated. Once all major marketplace offerings are identified and evaluated, the study group should determine the functions that could and should be automated and provided centrally, whether any of the systems in the market meet these needs, whether the state can satisfy the technical and financial requirements, and whether the investment would be cost-justified.

Implementation of this recommendation will necessitate that the Legislature charge the Trial Courts Technology Committee with conducting the feasibility study.

### **2.5.7 Potential Cost Reduction**

The costs spent to qualify and orient jurors cannot be determined. It is a small part of “jury management” as well as judicial, state attorney, public defender and clerk of court and operations. The time that potential jurors save cannot be quantified directly but is intuitively significant. The potential savings associated with a centralized jury management system cannot be determined until the feasibility study is complete.

## **2.6 Court-based Mediation and Arbitration**

### **2.6.1 Definition/Description**

Court-based mediation and arbitration provides alternatives to adversary litigation. According to the Florida Dispute Resolution Center, the Florida Legislature has made a concerted effort over the last decade to find a more suitable method for addressing civil disputes in the court system. In 1988, statewide legislation was created that allows civil trial judges to refer any or all of their civil cases to mediation or arbitration, subject to rules and procedures of the Supreme Court of Florida. In Phase 1, MGT identified court-based mediation and arbitration separately from community-based mediation and arbitration services such as diversion programs, alternative sanctions programs, misdemeanor probation services, pretrial diversion or release programs and truancy services.

Although there is no constitutional mandate for court-based mediation and arbitration programs, there are numerous statutory mandates and authorizations. The resolution of cases in an alternative, non-adversarial setting is the goal of these programs. They allow for self-determination and empowerment by the parties, better resolutions for children, cost and time savings to the litigants and the court, and decreases in case modifications and appeals.

The counties fund most of the costs for court-based mediation and arbitration. Expenditures recorded for FY 2000 were about \$8 million. Fees, charges, and grants offset a significant portion of these costs.

### **2.6.2 Program Delivery Variations**

While it is likely that some level of arbitration services are provided through the courts system, OSCA has determined that mediation services provided through the courts is the most widely employed form of alternative dispute resolution. Funding for mediation programs is provided through a variety of sources, including grants, state general revenue, and federal funding, but the most common source of revenue appears to be fees, either from participation fees charged to parties or from service charges on court proceedings. In addition to the variety of funding sources in Florida, several different models for the delivery of mediation services are used throughout the state. Some circuits use their funding to compensate staff mediators, while other circuits compensate case management staff with the funds and refer cases to external mediators. Exhibit 2-16 depicts the number and titles of court employees and associated personnel costs by circuit and county for those employees performing work related to mediation or arbitration. The positions listed are currently paid for by counties.

At present, mediation services are provided in county court and in multiple divisions of circuit court, including family, civil, and juvenile. Some circuits are experimenting with criminal mediation in certain cases. Miami-Dade (11<sup>th</sup> Circuit) recently began a pilot mediation program for felony Driving Under the Influence cases. In the First Circuit, at least one high-profile murder case was decided through court-ordered mediation.



**EXHIBIT 2-16  
COUNTY-PAID MEDIATION-ARBITRATION POSITIONS AND PERSONNEL COSTS  
BY COUNTY AND CIRCUIT, FY2000**

| Circuit | County   | Position                       | FTE  | % on program | Allocated FTE | Personnel Costs  |
|---------|----------|--------------------------------|------|--------------|---------------|------------------|
| 1       | Escambia |                                |      |              |               |                  |
|         |          | Program Assistant              | 1    | 70%          | 0.7           | \$18,470         |
|         |          | <b>Total</b>                   |      |              | <b>0.7</b>    | <b>\$18,470</b>  |
|         |          | <b>Circuit Total</b>           |      |              | <b>0.7</b>    | <b>\$18,470</b>  |
| 2       | Leon     |                                |      |              |               |                  |
|         |          | Director, Family Mediation     | 1    | 100%         | 1             | \$67,972         |
|         |          | Director, Citizens Dispute     | 0.2  | 100%         | 0.2           | \$15,137         |
|         |          | Administrative Assistant       | 1    | 100%         | 1             | \$34,950         |
|         |          | Secretary III                  | 0.9  | 100%         | 0.9           | \$20,955         |
|         |          | Executive Director, NJC        | 1    | 100%         | 1             | \$57,150         |
|         |          | Deputy Exec. Director, NJC     | 1    | 100%         | 1             | \$38,862         |
|         |          | Case Coordinator I             | 3    | 100%         | 3             | \$95,499         |
|         |          | Administrative Assistant I     | 1    | 100%         | 1             | \$24,130         |
|         |          | <b>Total</b>                   |      |              | <b>9.1</b>    | <b>\$354,655</b> |
|         |          | <b>Circuit Total</b>           |      |              | <b>9.1</b>    | <b>\$354,655</b> |
| 4       | Duval    |                                |      |              |               |                  |
|         |          | Mediator                       | 1    | 100%         | 1             | \$50,759         |
|         |          | Court Administration Secretary | 1    | 100%         | 1             | \$26,228         |
|         |          | <b>Total</b>                   |      |              | <b>2</b>      | <b>\$76,987</b>  |
|         |          | <b>Circuit Total</b>           |      |              | <b>2</b>      | <b>\$76,987</b>  |
| 6       | Pasco    |                                |      |              |               |                  |
|         |          | Diversions Program Manager     | 1    | 50%          | 0.5           | \$20,270         |
|         |          | Secretary Specialist           | 1    | 100%         | 1             | \$28,166         |
|         |          | <b>Total</b>                   |      |              | <b>1.5</b>    | <b>\$48,436</b>  |
|         | Pinellas |                                |      |              |               |                  |
|         |          | Operations Manager             | 1    | 100%         | 1             | \$35,648         |
|         |          | Program Assistant              | 1    | 100%         | 1             | \$97,011         |
|         |          | Senior Office Specialist       | 2    | 100%         | 2             | \$91,417         |
|         |          | <b>Total</b>                   |      |              | <b>4</b>      | <b>\$224,076</b> |
|         |          | <b>Circuit Total</b>           |      |              | <b>5.5</b>    | <b>\$272,512</b> |
| 8       | Alachua  |                                |      |              |               |                  |
|         |          | Court Program Specialist I     | 0.6  | 100%         | 0.6           | \$20,665         |
|         |          | Administrative Assistant II    | 1    | 100%         | 1             | \$33,558         |
|         |          | Director, ADR                  | 0.75 | 100%         | 0.75          | \$46,519         |
|         |          | Family Mediator                | 0.75 | 100%         | 0.75          | \$34,454         |
|         |          | Court Program Specialist I     | 0.6  | 100%         | 0.6           | \$20,665         |
|         |          | <b>Total</b>                   |      |              | <b>3.7</b>    | <b>\$155,861</b> |
|         |          | <b>Circuit Total</b>           |      |              | <b>3.7</b>    | <b>\$155,861</b> |

**Recommendations to Increase Efficiency/Reduce Costs of  
Essential Judicial System Activities**

**EXHIBIT 2-16 (Continued)  
COUNTY-PAID MEDIATION-ARBITRATION POSITIONS AND PERSONNEL COSTS  
BY COUNTY AND CIRCUIT, FY2000**

| Circuit | County       | Position                           | FTE | % on<br>program | Allocated<br>FTE | Personnel<br>Costs |
|---------|--------------|------------------------------------|-----|-----------------|------------------|--------------------|
| 9       | Orange       | Dir., Dispute Resolution Svcs      | 1   | 75%             | 0.75             | \$46,353           |
|         |              | Assistant Director, DRS            | 1   | 100%            | 1                | \$33,530           |
|         |              | Administrative Assistant           | 1   | 100%            | 1                | \$31,466           |
|         |              | Senior Secretary                   | 2   | 100%            | 1.88             | \$51,700           |
|         |              | Family Mediator                    | 1   | 75%             | 0.75             | \$53,825           |
|         |              | <b>Total</b>                       |     |                 | <b>5.38</b>      | <b>\$216,874</b>   |
|         |              | <b>Circuit Total</b>               |     |                 | <b>5.38</b>      | <b>\$216,874</b>   |
| 11      | Dade         | County Court Mediator              | 7   | 100%            | 7                | \$447,860          |
|         |              | Mediator                           | 1   | 100%            | 1                | \$68,504           |
|         |              | Conciliator                        | 5   | 100%            | 5                | \$406,848          |
|         |              | Judicial Support Administrator III | 1   | 100%            | 1                | \$98,026           |
|         |              | Judicial Support Specialist II     | 5   | 100%            | 5                | \$234,016          |
|         |              | Court Services Specialist          | 1   | 100%            | 1                | \$42,545           |
|         |              | Office Support Specialist III      | 1   | 100%            | 1                | \$32,797           |
|         |              | Office Support Specialist II       | 1   | 100%            | 1                | \$26,884           |
|         |              | <b>Total</b>                       |     |                 | <b>22</b>        | <b>\$1,357,480</b> |
|         |              | <b>Circuit Total</b>               |     |                 | <b>22</b>        | <b>\$1,357,480</b> |
| 12      | Sarasota     | Administrative Coordinator         | 1   | 100%            | 1                | \$37,636           |
|         |              | Senior Secretary                   | 1   | 100%            | 1                | \$31,506           |
|         |              | <b>Total</b>                       |     |                 | <b>2</b>         | <b>\$69,142</b>    |
|         |              | <b>Circuit Total</b>               |     |                 | <b>2</b>         | <b>\$69,142</b>    |
| 13      | Hillsborough | Deputy Director, Mediation         | 1   | 100%            | 1                | \$63,398           |
|         |              | Court Program Manager              | 3   | 100%            | 3                | \$161,786          |
|         |              | Court Program Specialist I         | 9   | 100%            | 9                | \$424,519          |
|         |              | Senior Administrative Aide         | 1   | 100%            | 1                | \$39,729           |
|         |              | Administrative Aide                | 6   | 100%            | 6                | \$192,381          |
|         |              | Senior Program Assistant           | 1   | 100%            | 1                | \$48,934           |
|         |              | Senior Court Ops. Consultant       | 1   | 50%             | 0.5              | \$40,274           |
|         |              | <b>Total</b>                       |     |                 | <b>21.5</b>      | <b>\$971,021</b>   |
|         |              | <b>Circuit Total</b>               |     |                 | <b>21.5</b>      | <b>\$971,021</b>   |

**Recommendations to Increase Efficiency/Reduce Costs of  
Essential Judicial System Activities**

**EXHIBIT 2-16 (Continued)  
COUNTY-PAID MEDIATION-ARBITRATION POSITIONS AND PERSONNEL COSTS  
BY COUNTY AND CIRCUIT, FY2000**

| Circuit | County     | Position                       | FTE | % on<br>program | Allocated<br>FTE | Personnel<br>Costs |
|---------|------------|--------------------------------|-----|-----------------|------------------|--------------------|
| 15      | Palm Beach | Family Mediation Specialist    | 7   | 100%            | 7                | \$287,366          |
|         |            | Senior Secretary               | 2   | 100%            | 2                | \$72,670           |
|         |            | Legal Secretary                | 2   | 33-100%         | 1.33             | \$48,023           |
|         |            | Secretary                      | 1   | 100%            | 1                | \$30,225           |
|         |            | Clerical Specialist            | 1   | 100%            | 1                | \$24,050           |
|         |            | <b>Total</b>                   |     |                 | <b>12.33</b>     | <b>\$462,334</b>   |
|         |            | <b>Circuit Total</b>           |     |                 | <b>12.33</b>     | <b>\$462,334</b>   |
| 17      | Broward    | Dir. Court Mediator/Arbitrator | 1   | 50%             | 0.5              | \$44,295           |
|         |            | Certified Mediator             | 2   | 100%            | 2                | \$138,482          |
|         |            | Court Coordinator              | 1   | 100%            | 1                | \$45,486           |
|         |            | Court Coordinator III          | 1   | 100%            | 1                | \$43,294           |
|         |            | Court Admin. Office Manager    | 1   | 100%            | 1                | \$42,238           |
|         |            | Administrative Specialist III  | 0.5 | 100%            | 0.5              | \$13,827           |
|         |            | Administrative Specialist II   | 1   | 100%            | 1                | \$32,997           |
|         |            | <b>Total</b>                   |     |                 | <b>7</b>         | <b>\$360,619</b>   |
|         |            | <b>Circuit Total</b>           |     |                 | <b>7</b>         | <b>\$360,619</b>   |
| 18      | Brevard    | Director, Family Mediation     | 1   | 100%            | 1                | \$62,824           |
|         |            | Family Mediator                | 1   | 100%            | 1                | \$54,971           |
|         |            | Administrative Assistant II    | 1   | 100%            | 1                | \$41,206           |
|         |            | <b>Total</b>                   |     |                 | <b>3</b>         | <b>\$159,001</b>   |
|         | Seminole   | Coordinator                    | 1   | 100%            | 1                | \$37,734           |
|         |            | <b>Total</b>                   |     |                 | <b>1</b>         | <b>\$37,734</b>    |
|         |            | <b>Circuit Total</b>           |     |                 | <b>4</b>         | <b>\$196,735</b>   |
| 19      | St. Lucie  | Mediation Coordinator          | 1   | 100%            | 1                | \$39,029           |
|         |            | <b>Total</b>                   |     |                 | <b>1</b>         | <b>\$39,029</b>    |
|         |            | <b>Circuit Total</b>           |     |                 | <b>1</b>         | <b>\$39,029</b>    |
| 20      | Charlotte  | Program Specialist I           | 1   | 25%             | 0.25             | \$6,338            |
|         |            | Program Specialist Supervisor  | 1   | 100%            | 1                | \$33,503           |
|         |            | <b>Total</b>                   |     |                 | <b>1.25</b>      | <b>\$39,841</b>    |
|         | Collier    | Mediation Coordinator          | 1   | 100%            | 1                | \$57,927           |
|         |            | Secretary III                  | 1   | 100%            | 1                | \$30,951           |
|         |            | <b>Total</b>                   |     |                 | <b>2</b>         | <b>\$88,878</b>    |
|         | Lee        | Program Specialist II          | 1   | 100%            | 1                | \$39,394           |
|         |            | Secretary III                  | 3   | 100%            | 3                | \$81,451           |
|         |            | Program Administrator          | 1   | 100%            | 1                | \$62,854           |
|         |            | <b>Total</b>                   |     |                 | <b>5</b>         | <b>\$183,699</b>   |
|         |            | <b>Circuit Total</b>           |     |                 | <b>8.25</b>      | <b>\$312,418</b>   |

Source: OSCA Analysis of Revision 7 Elements

### **2.6.3 Stakeholder Entity Input**

In 1986, the Dispute Resolution Center within OSCA was created to provide assistance to the courts in developing alternative dispute resolution programs and to conduct education and research in the area. In addition to the center, the Supreme Court also has three standing committees on Alternative Dispute Resolution (ADR), the Supreme Court Committee on ADR Rules, the Supreme Court Committee on ADR Policy, and the Mediator Ethics Advisory Committee. In addition, the Mediator Qualifications Board hears grievances filed against mediators, and the Mediation Training Review Board hears grievances filed against certified mediator training programs. The Dispute Resolution Center also established an ADR Innovative Grant Program in 1994. The center provides seed money for trial courts throughout the state to experiment with innovative dispute resolution projects. The Trial Court Budget Commission has determined that mediation and arbitration are essential elements of the courts system proper.

### **2.6.4 National Best Practices**

Child protection mediation programs were in place in 10 states in July 2000. These states are Arizona, Arkansas, California, Colorado, Connecticut, Florida, Iowa, Michigan, Ohio, and Texas. California, Connecticut, Florida, and Ohio also have been recognized as national leaders in the field. Child protection mediation, or dependency mediation, is used after the child welfare agency has removed children from their homes. Twenty states, including Florida, provide truancy mediation programs, which are administered by various court entities, including the court itself, teen courts, mediation centers, and prosecutors' offices.

In addition, 45 states responded to a National Center for State Courts request for information about ADR funding. State responses show a mix of funding derived from

state general revenue, state and federal grants, and fees, and programs are both court-connected and private. Some states, such as New Hampshire, rely heavily on volunteers and part-time staff because of insufficient funding. New Jersey uses regular court staff for mediation and has no separate budget for the activity. Many states, including Pennsylvania, Rhode Island, and West Virginia, do not have a statewide ADR office.

The “Trial Court Performance Standards” issued by the Bureau of Justice Assistance of the U.S. Department of Justice set out two standards relating to ADR. Standard 1.5, “Affordable Costs of Access,” requires that trial courts provide reasonable, fair, and affordable costs of access to trial court proceedings and records, in terms of money, time, and procedures. Suggested means to achieve this include the establishment of “appropriate alternatives for resolving disputes (e.g., referral services for cases that may be resolved by mediation, court-annexed arbitration, early neutral evaluation, tentative ruling procedures, or special settlement conferences).” Also, Standard 3.5, “Responsibility for Enforcement,” encourages trial courts to ensure that their orders are enforced and also applies to “those circumstances when a court relies upon administrative and quasi-judicial processes to screen and divert cases by using . . . alternative dispute resolution. Noncompliance remains an issue when the trial court sponsors such programs or is involved in ratifying the decisions that arise out of them.”

#### **2.6.5 Other State Practices**

In 2002 California adopted comprehensive ethics standards for contractual arbitrators. California also has recently implemented measures that require the court to provide the plaintiff access to an information package that outlines the advantages and disadvantages of the principal ADR process. This package must also be served to the defendant with the complaint.

Arizona statutes require arbitration in most civil cases not exceeding \$50,000. These cases are heard by one to three arbitrators, who are attorneys appointed by the court. Hearings are conducted in an informal setting and manner that saves money and reduces the number of cases in trial courts.

New Jersey has a statewide mediation program for civil, general equity, and probate cases. The state maintains a list of approved mediators who have met specific training requirements and other criteria. Mediators provide the first three hours on a case without charge and thereafter are paid the market rate. Mediation fees are shared by the parties involved but are waived in certain types of cases.

According to the "24<sup>th</sup> Annual Report of the Chief Administrator of the Courts," mandatory arbitration programs are operated in 31 counties in the State of New York. Outside New York City, these programs involve damages claimed of \$6,000 or less, while in New York City cases are limited to \$10,000 or less. In 2001, statewide, 18,721 cases were received for arbitration, 17,750 dispositions and 943 demands for trial de novo (a trial in a higher court in which all the issues of fact are reconsidered as if no previous trial in a lower court had taken place) for a 5% trial rate.

The Ohio Courts Futures Commission Report recommends myriad improvements to the state courts' provision of mediation services, including:

- Instituting voluntary mediation in certain "lower level" criminal cases;
- Increasing the use of mediation in appeals and original actions in the Supreme Court;
- The Supreme Court in the state should continue to lead and monitor ADR programs in Ohio;
- Users of all Ohio courts should be able to file a request for mediation without filing a lawsuit;
- Each trial court should have an array of tracks or systems beside traditional litigation that parties may use to resolve their disputes;

- Courts should develop strong, high-quality in-house mediation programs;
- Mediators should be used when appropriate to assist in public policy or other similar disputes at the state level; and
- Courts should provide mediation, counseling, and education services at the initial stages of civil family conflicts.

#### **2.6.6 Recommendations**

##### **RECOMMENDATION 2.6-1:**

**Identify forms of court-based mediation and/or arbitration that warrant state funding based on net savings of judicial time and/or costs.**

Mediation and arbitration are the predominant forms of alternative dispute resolution used in Florida. They may be provided as a court-based service, which is the focus of this analysis, or as a community-based activity. There are many circumstances where the parties want to use some type of mediation/arbitration rather than adversarial litigation. It is not clear, however, which types of cases and which types of mediation/arbitration warrant state funding, particularly if the criterion is a net savings in court time and cost. This issue is further complicated by the variety of funding sources that could be used. These include fees and charges paid by the parties, grants, counties who may be willing to fund these services because of the benefits to their citizens, and certain state funds. Some circuits are also able to recruit volunteers to staff the programs and significantly reduce the costs.

Implementation of this recommendation will necessitate that the Legislature work with officials of the courts (such as the Dispute Resolution Center) to establish specific criteria for state funding of court-based mediation and arbitration. While public defenders and state attorneys are not directly involved in ADR, their clients and/or cases could be. Therefore, they should also be involved in determining the forms of court-based mediation and arbitration that warrant state funding. Once the criteria are agreed upon, they should be incorporated within the court rules.

##### **RECOMMENDATION 2.6-2:**

**Develop standardized processes for managing and using court-based mediation and arbitration including in-house vs. contracted vs. volunteer; contractor selection, management and coordination; fee schedules for service providers; model contract provisions; oversight and evaluation; invoice review and approval; and fee/charge schedules for recipients of services. These should be developed by the Dispute Resolution Center, supported by other entities, as appropriate.**

Guidelines that are applicable to all circuits should be established to specify:

- criteria regarding employment of in-house staff, use of contractors and/or use of volunteers to provide mediation and arbitration;
- procedures for selecting, managing and coordinating mediators and arbitrators;
- fee schedules for persons providing mediation and arbitration services with adjustments for local marketplace conditions, where appropriate;
- contractual provisions regarding mediator and arbitrator qualifications, procedural requirements, contract duration, billing for fees and expense reimbursement, etc.
- oversight and evaluation of services;
- review and approval of contractor invoices; and
- fee/charge schedules for various types of mediation and arbitration services for various types of cases, with adjustments for local marketplace conditions, where appropriate.

Implementation of this recommendation will necessitate that the Dispute Resolution Center address each of these issues and provide the results to the Supreme Court for adoption, in consultation with the legislature.

### **RECOMMENDATION 2.6-3:**

**Establish monthly mediation and arbitration budgets for each circuit and monitor expenditures and workload against those budgets. OSCA should prepare and issue monthly, statewide, comparative reports for all circuits and distribute to each circuit court and the Legislature.**

Court administration for each circuit should develop a month-by-month budget for court-based mediation and arbitration. It should include contractor costs as well as any in-house staff costs for providing the services and/or managing the program. If volunteers provide assistance, the number of F.T.E.s should be noted. The budgets should be based upon historical expenditures, with reductions for policy and process improvements. To determine net budget needs, anticipated program funding from fees and charges, grants, county support, etc. should also be specified.

Actual expenditures during the year should be monitored through monthly reports that also include the number and types of cases where court-based mediation and arbitration is used. These actual results should be compared to the monthly and year-to-date budgets. The court in each circuit should provide copies of their monthly report to OSCA, who will prepare a statewide comparative report encompassing all circuits. Copies of the report should be distributed to each circuit as well as the legislature.



### **2.6.7 Potential Cost Reduction**

We estimate that mediation and arbitration costs could be reduced by five to fifteen percent through implementation of the three recommendations just described. This estimate is based on our experience with similar studies where standardized policies and procedures are established to help guide the decision-making of multiple independent organizational entities. The change in budgetary responsibility will have an even greater impact on costs. Currently, each circuit decides when mediation or arbitration will be used, whether it will be provided at public expense, and the amount to be spent. If fees, a grant, or some other revenue source is not used, the counties are responsible for the funding. Upon implementation of Revision 7, this type of funding will become the responsibility of state, with management control responsibility delegated to each circuit. With the court having both the decision-making and funding responsibility and with a specific budget item that is monitored monthly, our experience indicates it is realistic to expect an estimated cost reduction of five to fifteen percent.

## **2.7 Masters and Hearing Officers**

### **2.7.1 Definition/Description**

Masters and hearing officers are defined as quasi-judicial officers who support and supplement the court under certain circumstances. The Trial Court Performance and Accountability Commission's definition states that they are not a substitute for judges and, except for civil traffic infraction hearing officers, generally cannot exercise the authority placed in elected or appointed judges. Masters and hearing officers must be members of the Florida Bar, but there are no education or experience requirements and they are not subject to Judicial Qualifications Commission oversight. Civil Traffic Infraction Hearing Officers are constitutionally authorized. All others are statutorily authorized or mandated.

The Trial Court Budget Commission reports that masters and hearing officers provide three major benefits to the judicial system. First, they supplement the work of judges by performing tasks that are largely ministerial, managerial, or computational in nature. This reduces the time judges must devote to these tasks that, in turn, increases the time available for more substantive areas of the court caseload. Second, they are able to develop considerable expertise in narrow areas of the law, such as child support enforcement or probate matters. Finally, use of masters or hearing officers for certain matters allows litigants more time to present matters before a judicial officer than would be possible were all matters handled by a judge.

The counties fund most costs for masters and hearing officers and the associated support staff. Expenditures recorded for FY 2000 were a net of almost \$6.5 million after deducting grants from the Department of Revenue for child support enforcement hearing officers.

#### **2.7.2 Program Delivery Variations**

Nearly every circuit in Florida has a general or special master system, a hearing officer system, or some combination of those systems. The four primary types of masters and hearing officers in the state are special masters, general masters, civil traffic infraction hearing officers, and child support hearing officers. While the Florida Constitution and statutory laws provide general parameters for the use of masters and hearing officers, they merely *authorize* their use in certain circumstances. As such, the number and use of masters and hearing officers differs from circuit to circuit. Exhibit 2-17 depicts the county-paid positions and personnel costs related to masters and hearing officers by county and circuit, and Exhibit 2-18 shows the base budget, county funding, for FY2000 by circuit.

**Recommendations to Increase Efficiency/Reduce Costs of  
Essential Judicial System Activities**

**EXHIBIT 2-17  
COUNTY-PAID MASTER/HEARING OFFICER POSITIONS AND PERSONNEL  
COSTS BY COUNTY AND CIRCUIT, FY2000**

| Circuit | County   | Position                          | FTE  | % on<br>program | Allocated<br>FTE | Personnel<br>Costs |
|---------|----------|-----------------------------------|------|-----------------|------------------|--------------------|
| 2       | Leon     | Child Support Hearing Officer     | 1    | 100%            | 1                | \$82,550           |
|         |          | Administrative Secretary          | 1    | 100%            | 1                | \$33,520           |
|         |          | General Master                    | 1    | 100%            | 1                | \$104,445          |
|         |          | <b>Total</b>                      |      |                 | <b>3</b>         | <b>\$220,515</b>   |
|         |          | <b>Circuit Total</b>              |      |                 | <b>3</b>         | <b>\$220,515</b>   |
| 4       | Duval    | Asst. Mgmt. Improvement Off.      | 3    | 100%            | 3                | \$251,448          |
|         |          | Mediators                         | 2    | 100%            | 2                | \$167,632          |
|         |          | Court Administration Secretary    | 3    | 100%            | 3                | \$78,684           |
|         |          | <b>Total</b>                      |      |                 | <b>8</b>         | <b>\$497,764</b>   |
|         |          | <b>Circuit Total</b>              |      |                 | <b>8</b>         | <b>\$497,764</b>   |
| 5       | Marion   | Not listed on personnel inventory | 0.25 | 100%            | 0.25             |                    |
|         |          | <b>Total</b>                      |      |                 | <b>0.25</b>      |                    |
|         |          | <b>Circuit Total</b>              |      |                 | <b>0.25</b>      |                    |
| 6       | Pasco    | General Master                    | 1    | 100%            | 1                | \$82,686           |
|         |          | <b>Total</b>                      |      |                 | <b>1</b>         | <b>\$82,686</b>    |
|         | Pinellas | General Master DCA                | 1    | 100%            | 1                | \$94,124           |
|         |          | General Master                    | 5    | 100%            | 5                | \$481,143          |
|         |          | Senior Secretary                  | 3    | 100%            | 3                | \$109,201          |
|         |          | <b>Total</b>                      |      |                 | <b>9</b>         | <b>\$684,468</b>   |
|         |          | <b>Circuit Total</b>              |      |                 | <b>10</b>        | <b>\$767,154</b>   |
|         |          |                                   |      |                 |                  |                    |
| 7       | Volusia  | Senior Staff Assistant            | 1    | 100%            | 1                | \$32,115           |
|         |          | <b>Total</b>                      |      |                 | <b>1</b>         | <b>\$32,115</b>    |
|         |          | <b>Circuit Total</b>              |      |                 | <b>1</b>         | <b>\$32,115</b>    |

**Recommendations to Increase Efficiency/Reduce Costs of  
Essential Judicial System Activities**

**EXHIBIT 2-17 (Continued)  
COUNTY-PAID MASTER/HEARING OFFICER POSITIONS AND PERSONNEL  
COSTS BY COUNTY AND CIRCUIT, FY2000**

| <b>Circuit</b> | <b>County</b> | <b>Position</b>                | <b>FTE</b> | <b>% on<br/>program</b> | <b>Allocated<br/>FTE</b> | <b>Personnel<br/>Costs</b> |
|----------------|---------------|--------------------------------|------------|-------------------------|--------------------------|----------------------------|
| <b>8</b>       | Alachua       | Hearing Officer/JHO            | 1.6        | 100%                    | 1.6                      | \$154,313                  |
|                |               | Administrative Assistant       | 1          | 100%                    | 1                        | \$31,837                   |
|                |               | Senior Secretary/JHO           | 1.75       | 100%                    | 1.75                     | \$45,400                   |
|                |               | <b>Total</b>                   |            |                         | <b>4.35</b>              | <b>\$231,550</b>           |
|                |               | <b>Circuit Total</b>           |            |                         | <b>4.35</b>              | <b>\$231,550</b>           |
| <b>9</b>       | Orange        | Sr. Child Support Hearing Off. | 1          | 100%                    | 1                        | \$100,879                  |
|                |               | Child Support Hearing Officer  | 1          | 100%                    | 1                        | \$85,694                   |
|                |               | Administrative Assistant       | 1          | 100%                    | 1                        | \$31,273                   |
|                |               | Senior Secretary               | 1          | 100%                    | 1                        | \$29,016                   |
|                |               | Secretary                      | 1          | 100%                    | 1                        | \$25,147                   |
|                |               | <b>Total</b>                   |            |                         | <b>5</b>                 | <b>\$272,009</b>           |
|                |               | <b>Circuit Total</b>           |            |                         | <b>5</b>                 | <b>\$272,009</b>           |
| <b>10</b>      | Polk          | Hearing Officer                | 2          | 100%                    | 2                        | \$152,394                  |
|                |               | Senior Secretary               | 1          | 100%                    | 1                        | \$28,078                   |
|                |               | <b>Total</b>                   |            |                         | <b>3</b>                 | <b>\$180,472</b>           |
|                |               | <b>Circuit Total</b>           |            |                         | <b>3</b>                 | <b>\$180,472</b>           |
| <b>11</b>      | Dade          | General Master                 | 12.8       | 100%                    | 12.8                     | \$1,527,774                |
|                |               | Legal Secretary I              | 13         | 100%                    | 13                       | \$620,019                  |
|                |               | <b>Total</b>                   |            |                         | <b>25.8</b>              | <b>\$2,147,793</b>         |
|                |               | <b>Circuit Total</b>           |            |                         | <b>25.8</b>              | <b>\$2,147,793</b>         |
| <b>12</b>      | Manatee       | Hearing Officer                | 1          | 100%                    | 1                        | \$104,456                  |
|                |               | Support Enforcement Coord.     | 1          | 100%                    | 1                        | \$35,774                   |
|                |               | <b>Total</b>                   |            |                         | <b>2</b>                 | <b>\$140,230</b>           |
|                | Sarasota      | Hearing Officer                | 1          | 100%                    | 1                        | \$96,083                   |
|                |               | Judicial Assistant             | 1          | 100%                    | 1                        | \$38,999                   |
|                |               | <b>Total</b>                   |            |                         | <b>2</b>                 | <b>\$135,082</b>           |
|                |               | <b>Circuit Total</b>           |            |                         | <b>4</b>                 | <b>\$275,312</b>           |

**Recommendations to Increase Efficiency/Reduce Costs of  
Essential Judicial System Activities**

**EXHIBIT 2-17 (Continued)  
COUNTY-PAID MASTER/HEARING OFFICER POSITIONS AND PERSONNEL  
COSTS BY COUNTY AND CIRCUIT, FY2000**

| <b>Circuit</b> | <b>County</b> | <b>Position</b>                | <b>FTE</b> | <b>% on<br/>program</b> | <b>Allocated<br/>FTE</b> | <b>Personnel<br/>Costs</b> |
|----------------|---------------|--------------------------------|------------|-------------------------|--------------------------|----------------------------|
| <b>13</b>      | Hillsborough  | General Master                 | 4          | 100%                    | 4                        | \$453,931                  |
|                |               | General Master Assistants      | 4          | 100%                    | 4                        | \$142,199                  |
|                |               | Hearing Officer                | 1          | 100%                    | 1                        | \$100,463                  |
|                |               | Hearing Officer Assistant      | 1          | 100%                    | 1                        | \$45,126                   |
|                |               | <b>Total</b>                   |            |                         | <b>10</b>                | <b>\$741,719</b>           |
|                |               | <b>Circuit Total</b>           |            |                         | <b>10</b>                | <b>\$741,719</b>           |
| <b>15</b>      | Palm Beach    | On Call                        | 0.5        | 50%                     | 0.25                     | \$3,454                    |
|                |               | Masters                        | 7          | 100%                    | 7                        | \$716,856                  |
|                |               | Legal Secretary                | 7          | 100%                    | 7                        | \$250,675                  |
|                |               | <b>Total</b>                   |            |                         | <b>14.25</b>             | <b>\$970,985</b>           |
|                |               | <b>Circuit Total</b>           |            |                         | <b>14.25</b>             | <b>\$970,985</b>           |
| <b>17</b>      | Broward       | General Master                 | 7          | 100%                    | 7                        | \$759,175                  |
|                |               | General Master Secretaries     | 7          | 100%                    | 7                        | \$235,096                  |
|                |               | <b>Total</b>                   |            |                         | <b>14</b>                | <b>\$994,271</b>           |
|                |               | <b>Circuit Total</b>           |            |                         | <b>14</b>                | <b>\$994,271</b>           |
| <b>18</b>      | Brevard       | General Master/Hearing Officer | 1          | 100%                    | 1                        | \$86,897                   |
|                |               | Administrative Assistant II    | 1          | 100%                    | 1                        | \$40,057                   |
|                |               | <b>Total</b>                   |            |                         | <b>2</b>                 | <b>\$126,954</b>           |
|                | Seminole      | Managers                       | 2          | 100%                    | 2                        | \$155,306                  |
|                |               | Law Clerk/General Master       | 1          | 100%                    | 1                        | \$70,350                   |
|                |               | Senior Staff Assistant         | 2          | 100%                    | 2                        | \$55,936                   |
|                |               | Staff Assistant                | 1          | 100%                    | 1                        | \$24,898                   |
|                |               | <b>Total</b>                   |            |                         | <b>6</b>                 | <b>\$306,490</b>           |
|                |               | <b>Circuit Total</b>           |            |                         | <b>8</b>                 | <b>\$433,444</b>           |
| <b>20</b>      | Lee           | Administrative Assistant       | 1          | 100%                    | 1                        | \$36,531                   |
|                |               | <b>Total</b>                   |            |                         | <b>1</b>                 | <b>\$36,531</b>            |
|                |               | <b>Circuit Total</b>           |            |                         | <b>1</b>                 | <b>\$36,531</b>            |

Source: OSCA Analysis of Revision 7 Elements

**EXHIBIT 2-18  
BASE BUDGET, COUNTY FUNDING FOR MASTERS AND HEARING OFFICERS,  
FY2000**

| <b>Circuit</b> | <b>FTE*</b>   | <b>Salary &amp;<br/>Benefits</b> | <b>OPS</b>       | <b>Expense/<br/>OCO</b> | <b>Total</b>       |
|----------------|---------------|----------------------------------|------------------|-------------------------|--------------------|
| 1              | 0.00          | \$0                              | \$178,910        | \$11,126                | \$195,468          |
| 2              | 3.00          | \$216,902                        | \$6,703          | \$1,014                 | \$225,771          |
| 3              | 0.00          | \$0                              | \$0              |                         | \$0                |
| 4              | 8.00          | \$530,296                        | \$8,190          | \$39,638                | \$609,859          |
| 5              | 0.00          | \$0                              | \$3,875          |                         | \$3,875            |
| 6              | 10.00         | \$735,959                        | \$48,419         | \$17,474                | \$801,862          |
| 7              | 1.00          | \$34,234                         | \$135,794        |                         | \$187,971          |
| 8              | 4.35          | \$224,846                        |                  | \$74,468                | \$318,650          |
| 9              | 5.00          | \$279,710                        |                  | \$83,738                | \$363,453          |
| 10             | 3.00          | \$192,734                        |                  | \$2,161                 | \$194,898          |
| 11             | 25.80         | \$1,963,591                      |                  | \$488,027               | \$2,451,644        |
| 12             | 2.00          | \$129,837                        |                  | \$26,268                | \$156,107          |
| 13             | 10.00         | \$724,167                        | \$44,458         | \$30,198                | \$798,833          |
| 14             | 0.00          | \$0                              | \$11,136         | \$965                   | \$12,101           |
| 15             | 14.00         | \$969,841                        | \$31,599         | \$21,413                | \$1,254,879        |
| 16             | 0.00          | \$0                              | \$56,724         | \$2,595                 | \$59,319           |
| 17             | 14.00         | \$956,906                        |                  | \$117,576               | \$1,074,496        |
| 18             | 7.00          | \$389,756                        | \$47,593         | \$16,475                | \$453,831          |
| 19             | 0.00          | \$0                              |                  |                         | \$129,416          |
| 20             | 3.00          | \$183,638                        | \$58,602         | \$140                   | \$247,823          |
| <b>Total</b>   | <b>110.15</b> | <b>\$7,532,418</b>               | <b>\$632,003</b> | <b>\$933,276</b>        | <b>\$9,540,146</b> |

Source: OSCA Analysis of Revision 7 Elements, Base Budget, County Funding

\* FTE refers to the number of salaried employees earning benefits within the element.

Larger circuits like the 11<sup>th</sup> Circuit rely heavily on masters and hearing officers. This circuit uses hearing officers for pre-trial conferences for misdemeanor traffic cases, which often results in settlement of the matter before a trial is even scheduled, saving court time and attorney costs for the defendant. In the juvenile division, the hearing officers are estimated to reduce each judge's caseload by 40 cases per week. This clearly helps expedite cases through the judicial process and this division, in particular, must meet federal child welfare time limits or risk losing funds. Child support enforcement officers hold about 10,000 hearings per year, and civil traffic infraction

***Recommendations to Increase Efficiency/Reduce Costs of  
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hearing officers handle approximately 300,000 cases per year. In contrast, smaller, rural circuits like the Eighth Circuit, use hearing officers and general masters with much less frequency. For example, one part-time hearing officer handles all Title IV-D and Non IV-D Child Support Enforcement cases in three counties in the circuit (Baker, Bradford, and Union counties). Another part-time hearing officer handles all such cases in two other counties in the circuit (Levy and Gilchrist counties). In the small, rural Third Circuit, only one of the seven counties has a special master program and it is staffed by volunteer attorneys. Exhibit 2-19 depicts the calendar year 1999 case filings for cases that include proceedings in which masters or hearing officers could provide judicial support.

**EXHIBIT 2-19  
CIRCUIT COURT CASES THAT INCLUDE PROCEEDINGS IN WHICH MASTERS  
AND HEARING OFFICERS MAY PROVIDE SUPPORT, CALENDAR YEAR 1999**

| Circuit      | <i>Calendar Year 1999 Case Filings</i>                           |  |  | TOTAL          | Masters and<br>Hearing Officer<br>FTEs serving in<br>Circuit Court** | Cases per<br>Master or<br>Hearing Officer |
|--------------|--|--|--|----------------|--|---|
|              | Domestic<br>Relations (minus<br>domestic and<br>repeat violence) | Probate,<br>Guardianship,<br>and Mental<br>Health) | Juvenile<br>Dependency<br>Petitions (minus<br>TPR petitions) |                |  |   |
| 1            | 8,305  | 3,429  | 578  | 12,312         | 2.03   | 6,065.0                                   |
| 2            | 4,604  | 1,889  | 421  | 6,914          | 2.50   | 2,765.6                                   |
| 3            | 2,887  | 1,086  | 238  | 4,211          | 0.00   | N/A                                       |
| 4            | 10,995   | 4,295  | 810  | 16,100         | 8.00   | 2,012.5                                   |
| 5            | 9,079  | 5,104  | 1,040  | 15,223         | 2.00   | 7,611.5                                   |
| 6            | 11,341   | 10,264   | 865  | 22,470         | 9.65   | 2,328.5                                   |
| 7            | 7,484  | 4,242  | 517  | 12,243         | 2.70   | 4,534.4                                   |
| 8            | 4,145  | 1,787  | 275  | 6,207          | 2.00   | 3,103.5                                   |
| 9            | 12,206   | 3,478  | 1,265  | 16,949         | 3.00   | 5,649.7                                   |
| 10           | 7,226  | 3,465  | 804  | 11,495         | 2.50   | 4,598.0                                   |
| 11           | 21,198   | 9,579  | 918  | 31,695         | 14.20  | 2,232.0                                   |
| 12           | 6,014  | 4,882  | 367  | 11,263         | 2.60   | 4,331.9                                   |
| 13           | 10,047   | 5,358  | 1,183  | 16,588         | 8.40   | 1,974.8                                   |
| 14           | 4,108  | 1,513  | 254  | 5,875          | 0.50   | 11,750.0                                  |
| 15           | 10,066   | 7,432  | 435  | 17,933         | 9.13   | 1,964.2                                   |
| 16           | 891  | 507  | 77   | 1,475          | 1.10   | 1,340.9                                   |
| 17           | 13,678   | 9,347  | 1,200  | 24,225         | 8.00   | 3,028.1                                   |
| 18           | 7,121  | 3,371  | 709  | 11,201         | 3.60   | 3,111.4                                   |
| 19           | 4,136  | 3,485  | 410  | 8,031          | 1.50   | 5,354.0                                   |
| 20           | 7,484  | 6,557  | 450  | 14,491         | 5.55   | 2,611.0                                   |
| <b>Total</b> | <b>163,015</b>   | <b>91,070</b>                                      | <b>12,816</b>  | <b>266,901</b> | <b>88.96</b>   | <b>3,000.2</b>                            |

Source: Trial Court Budget Commission, Funding Methodology Subcommittee Recommendations for FY2003

Some circuits financially support their masters and hearing officer programs through fees charged to participants. In the Sixth Circuit, the civil traffic infraction hearing officer program not only fully supports itself, but it generates additional revenue for the county. The program across the state is currently funded through state and county grants and courthouse/filing fees.

### **2.7.3 Stakeholder Entity Input**

The Trial Court Budget Commission determined that masters and hearing officers are an essential part of the courts system proper. A report issued July 2, 2002, by the Trial Court Performance and Accountability Commission (presented as Appendix G1 to this report) presents numerous recommendations for the use and governance of masters and hearing officers, including:

- **Position Title and Classification:** A uniform classification for supplemental hearing officers should be created, and “magistrate” was most often suggested. These individuals should be a member in good standing with the Florida Bar for at least five years, and should undergo a criminal background check, at a minimum. Masters and hearing officers should be selected by the chief judge of a circuit with input from other members of the court, and should be either “at will” or contractual employees.
- **Training:** All newly hired masters and hearing officers should be required to attend a standardized educational program, and continuing education programs should be required as a condition of continuing employment.
- **Service Delivery:** Circuits should consider using a full-time equivalent or contract model depending on their needs. But, if a circuit hires part-time masters or hearing officers, restrictions regarding the ethics of practicing law and presiding over cases in the same jurisdiction should be carefully observed.
- **Restrictions and Impediments:** The rules of procedure should be harmonized and courts should do more to educate pro se litigants about the consent and exception provisions regarding referral to masters and hearing officers. In addition, masters and hearing officers should not be allowed to preside over matters that may affect an individual’s liberty.



- **Staffing Considerations:** Masters and hearing officers should be assigned to county court where there is sufficient workload for the adjudication of civil traffic infraction cases. Consideration should also be given to assigning masters and hearing officers to county court for other proceedings if the workload and case processing functions are such that their presence could assist judges in the timely disposition of cases. The use of masters and hearing officers should be justified based upon judicial workload, complexity of cases, volume, and specific case process functions. However, they should not be used for case management and monitoring functions that could be performed by other professional staff at a lower cost.
- **Funding Considerations:** All funding restrictions should be removed, including the statutory restriction for funding and the rule restriction for payment of traffic infraction hearing officers. State funds should cover the full cost of masters and hearing officers in all service areas. Federal grant funding and matching state dollars used for child support hearing officers should be used when the resources are required and the federal guidelines do not impede the effective use of the resource.
- **Service Areas:** Masters and hearing officers should be used under the following conditions:
  - Matters of high volume;
  - Where need and efficiency match;
  - Where duties are largely ministerial, computational, or managerial;
  - Where the use of services is better served;
  - Where fundamental and due process rights are protected; and
  - Where the fundamental judicial function is served and supported.

A minority report was also submitted by two members of the commission that made recommendations including:

- Authorization to use masters should be predicated upon unwavering protection of due process, including knowing and voluntary consent;
- The use of masters should be defined by objective criteria that can be applied across all divisions of court; and
- Specific guidance for the application of the criteria for the use of masters in particular divisions of court should be developed by

subject matter experts with consideration given to the unique circumstances in each division of court.

The report concludes, “It is our humble opinion that the trend of referring more and more cases, and entire classes of cases, to masters and hearing officers is not good for the judiciary or the citizens of Florida. It is akin to sending some of the students from an overcrowded classroom to learn from the teacher’s aide. This kind of result is an unacceptable response to the shortage of judges. The judicial branch and the Legislature should cooperate to provide an economical and effective court system for our citizens, but the result should meet the high standards demanded by our Constitution.”

The Family Court Steering Committee (FCSC) of the Supreme Court of Florida addressed masters and hearing officers in their 2000-02 report and determined they are “an essential resource in the model family court.” The FCSC recommended that the Supreme Court promulgate a decision-making tool for judges to use in determining whether referral to a master is appropriate. The report notes, “While there is no dispute on the value of this resource, there is much disagreement within the branch over when it is appropriate to assign cases to masters. This is extremely critical for family courts because there is pressure to expand the use of masters by assigning them to general classes of family cases to accommodate heavy caseloads without prior consent of the parties. This trend has not happened in other divisions of the court.”

The FCSC, which includes several members of the Trial Court Performance and Accountability Commission, reviewed the reports issued by the latter committee, but did not take an official position on the recommendations. However, a joint workgroup on the use of masters comprised of members of both the FCSC and the Children’s Court Improvement Committee submitted comments to the Trial Court Performance and Accountability Commission supporting the minority opinion.

#### **2.7.4 National Best Practices**

The “Trial Court Performance Standards” issued by the Bureau of Justice Assistance of the U.S. Department of Justice set out one standard relating to masters and hearing officers. Standard 3.5, “Responsibility for Enforcement,” encourages trial courts to ensure that their orders are enforced and also applies to “those circumstances when a court relies upon administrative and quasi-judicial processes to screen and divert cases. . . . Noncompliance remains an issue when the trial court sponsors such programs or is involved in ratifying the decisions that arise out of them.”

#### **2.7.5 Other State Practices**

Masters and hearing officers are used in numerous states across the nation for varying purposes. For instance, “Special Masters” can be found in New Jersey, Ohio, Missouri, Colorado, Arizona, and Minnesota. Washington, Virginia, Maine, and New York use hearing officers, and Virginia, Alaska, Iowa, and Georgia use similar quasi-judicial officers called “magistrates.”

Little information is available regarding quasi-judicial officer salaries in other states. The Virginia State Courts determine the salaries for magistrates in the state, but local counties may supplement officer salaries by no more than 50 percent. A new law that took effect in Georgia on January 1, 2002 established the minimum annual salaries for certain county officers, including magistrates, based on a scale according to population of the county served. Salaries for magistrates in Iowa as of 1999 were budgeted at \$23,100. However, unlike Florida’s quasi-judicial officers, Iowa’s magistrates are not required to be lawyers. In Marin County, California, for example, contract hearing officers, which are called “Subordinate Judicial Officers” (SJOs) in the state, work on a per diem basis up to 130 full-day equivalents per year. Compensation for SJOs in the county is \$167 per half day and \$334 per full day without benefits.

Membership in the state Bar of California for at least five years is a prerequisite for becoming an SJO.

Masters or hearing officers in California are typically funded by one of the parties involved in the case, but are appointed by the court. These officers are typically hired in civil cases, specifically corporate litigation. In addition, SJOs are responsible for a variety of calendar assignments, including contested traffic and small claims trials and arraignments, especially during vacation or holiday periods.

In Texas, hearing officers are provided by the state for Child Support and Foster care cases. All other officers are appointed locally.

New Jersey hires and trains a pool of hearing officers at the state level, while some are hired locally at the district level. All hearing officer salaries are funded by the state. The judiciary employs hearing officers in the following types of cases:

- child support;
- some restraining order;
- domestic violence;
- some juvenile;
- some civil litigation

#### **2.7.6 Recommendations**

##### **RECOMMENDATION 2.7-1:**

**Develop general laws that define the authorities, responsibilities and use of masters and hearing officers. The statute should specify the types of cases and activities to be assigned and the masters/hearing officer qualifications.**

Article V of the Florida Constitution authorizes the use of hearing officers for civil traffic matters. In addition, there are statutes that enable the performance of certain functions by masters/hearing officers but no general statute exists to define specific authority and responsibilities. Currently, the role of masters and hearing officers is defined primarily through empowerments by the individual circuits.

The value of masters and hearing officers seems to be clear. They are typically used to save judges the time that would otherwise be spent on tasks that are largely ministerial, managerial, or computational in nature. They also help pro se litigants and individuals with less complex issues by providing a less restrictive environment for resolving matters. Establishing general laws would standardize the authority, responsibilities and

use of these valuable quasi-judicial resources across the state. The option of not addressing these issues through general laws leaves many unanswered questions and, by default, requires that each circuit make all of the resource utilization decisions. While a degree of flexibility to address local needs is appropriate, the lack of guiding parameters and constraints usually results in inefficiencies and/or lack of optimum effectiveness.

The recommended statute should specify the types of cases and activities that are within the purview of masters/hearing officers and the qualifications these individuals must possess. The definitions should be consistent with statutes authorizing the use of child support enforcement hearing officers funded through Department of Revenue grants.

Implementation of this recommendation will necessitate legislation to resolve any conflicts and establish the general statute.

#### **RECOMMENDATION 2.7-2:**

**Develop standardized processes for managing masters and hearing officers including full-time in-house vs. OPS vs. contracted vs. volunteer; contractor selection, management and coordination; fee schedules for service providers; model contract provisions; oversight and evaluation; and invoice review and approval. These should be developed by the Commission on Trial Court Performance and Accountability with OSCA's staff support.**

Guidelines that are applicable to all circuits should be established to specify:

- criteria regarding employment of full-time in-house staff, OPS (part-time personnel), volunteers and/or use of individuals under contract to serve as masters or hearing officers;
- procedures for selecting, managing and coordinating masters and hearing officers;
- fee schedules for persons providing services under contract with adjustments for local marketplace conditions, where appropriate;
- contractual provisions regarding qualifications, procedural requirements, contract duration, billing for fees and expense reimbursement, etc.;
- oversight and evaluation of services; and
- review and approval of contractor invoices.

Implementation of this recommendation will necessitate that the Trial Court Performance and Accountability Commission and OSCA staff address each of these issues and provide the results to the Supreme Court for adoption, in consultation with the legislature.

**RECOMMENDATION 2.7-3:**

**Use pre-trial conferences for misdemeanor traffic cases, whenever possible.**

Certain circuits have found that pre-trial conferences for misdemeanor traffic cases often result in settlement of the matter without the time and expense of a hearing. This not only saves the court time but can also save attorney costs for the person charged.

**RECOMMENDATION 2.7-4:**

**Establish monthly master and hearing officer budgets for each circuit and monitor expenditures and workload against those budgets. The budgets should specify full-time in-house staff, OPS and any contractor costs as well as the number of any volunteer F.T.E.s. To determine net budget needs, anticipated funds from the Department of Revenue and/or other grants should also be specified. OSCA should prepare and issue monthly, statewide, comparative reports for all circuits and distribute to each circuit court and the Legislature.**

The annual court administration budget for each circuit should include specific information regarding masters and hearing officers that includes full-time in-house staff, OPS and any contractor costs. If volunteers provide assistance, the number of F.T.E.s should be noted. The budgets should be based upon historical expenditures, with reductions for policy and process improvements. To determine net budget needs, anticipated funds from the Department of Revenue or other grants should also be specified.

Actual expenditures during the year should be monitored through monthly reports that also include the number and types of cases where masters and hearing officers are used. These actual results should be compared to the monthly and year-to-date budgets. The court in each circuit should provide a copy of their monthly report to OSCA who will prepare a statewide comparative report encompassing all circuits. Copies of the report should be distributed to each circuit as well as the legislature.

Implementation of this recommendation necessitates detailed analyses of the processes where the recommended general statute specifies master and hearing officers may be used. The average time and the volume for each type of matter must be determined so that the required number of masters and officers can be calculated. This may necessitate similar analyses of processes that are currently performed by judges but should be performed by masters/hearing officers. OSCA staff should conduct these studies under the auspices of the Trial Court Performance and Accountability Commission.

**2.7.7 Potential Cost Reduction**

It may be possible to realize a savings of one to two percent through implementation of the four recommendations just described. A much more significant

consideration, however, is the judicial time and cost that is or can be saved through the use of masters and hearing officers. The study described in Recommendation 2.7-4 should help to determine the optimum balance between the judicial and non-judicial resources.

## **2.8 Case Management**

### **2.8.1 Definition/Description**

Case management is a set of processes developed and used by the courts to facilitate case adjudication. It involves establishing control of cases to effectuate their movement through the court system from initiation to disposition. Captured within case management are programs such as the administration of specialty courts including drug courts and domestic violence courts, intake and referral services (court staff assigned to help pro se litigants navigate their way through the courts system), and coordination of case processing through specialty programs such as Differentiated Case Management (11<sup>th</sup> Circuit) and Alternative Dispute Resolution. However, it should be noted that, in the absence of specialty courts, the administrative functions devoted to the specialty courts would be transferred to “court administration.” Cases that would have passed through the specialty court process would instead be directed to the major court divisions handled by court administration (e.g., juvenile, civil, criminal).

Case management is in essence a management tool. There is no specific constitutional requirement for this court function. However, Article V, Section 2(a) of the Florida Constitution does require that the Supreme Court “shall adopt rules for . . . the administrative supervision of the courts” and section 2(d) requires that the chief judge of each circuit shall be responsible for the administrative supervision of the circuit court and county courts in his/her circuit.”

The county expenditure for case management cannot be precisely determined because the FY2000 audited annual financial reports do not capture this element. These costs are probably recorded under court administration, which was reported to be more than \$46 million. Data provided by the Office of State Courts Administration (OSCA) suggest that case management may represent approximately 36% of the court administration category documented in the reports.

### **2.8.2 Program Delivery Variations**

Case management practices vary significantly among the circuits, due to the discretionary nature of determining the best methods within each circuit for facilitating case adjudication. Typically, the larger circuits like the 11<sup>th</sup> (Miami-Dade) and the Sixth (Pinellas/Pasco counties) employ sophisticated programs that require significant numbers of staff and resources. Smaller circuits have less need for elaborate case management processes. County-paid personnel costs and positions related to case management by county and circuit are included as Exhibit 2-20.

A key component of case management is the intake, screening, and evaluation of cases to determine case processing and coordination requirements. Again, this process varies from circuit to circuit. While smaller, rural counties like Union do not require elaborate intake and screening functions, court administration has devoted staff time to coordinate a pro se self-help program for the relatively large number of pro se litigants that come through their courthouse.



**Recommendations to Increase Efficiency/Reduce Costs of  
Essential Judicial System Activities**

**EXHIBIT 2-20  
COUNTY-PAID CASE MANAGEMENT POSITIONS AND PERSONNEL COSTS  
BY COUNTY AND CIRCUIT, FY2000**

| Circuit | County     | Position                       | FTE | % on<br>program | Allocated<br>FTE | Personnel<br>Costs |
|---------|------------|--------------------------------|-----|-----------------|------------------|--------------------|
| 1       | Escambia   | Case Coordinator               | 1   | 100%            | 1                | \$33,607           |
|         |            | Case Coordinator I             | 1   | 100%            | 1                | \$31,976           |
|         |            | Program Assistant              | 1   | 30%             | 0.3              | \$7,916            |
|         |            | <b>Total</b>                   |     |                 | <b>2.3</b>       | <b>\$73,499</b>    |
|         | Santa Rosa | Case Coordinator               | 1   | 100%            | 1                | \$31,660           |
|         |            | <b>Total</b>                   |     |                 | <b>1</b>         | <b>\$31,660</b>    |
|         |            | <b>Circuit Total</b>           |     |                 | <b>3.3</b>       | <b>\$105,159</b>   |
| 2       | Leon       | Administrative Assistant II    | 1   | 100%            | 1                | \$31,985           |
|         |            | Secretary I                    | 0.5 | 100%            | 0.5              | \$6,875            |
|         |            | <b>Total</b>                   |     |                 | <b>1.5</b>       | <b>\$38,860</b>    |
|         |            | <b>Circuit Total</b>           |     |                 | <b>1.5</b>       | <b>\$38,860</b>    |
| 4       | Duval      | Court Administration Secretary | 5   | 100%            | 5                | \$138,856          |
|         |            | <b>Total</b>                   |     |                 | <b>5</b>         | <b>\$138,856</b>   |
|         |            | <b>Circuit Total</b>           |     |                 | <b>5</b>         | <b>\$138,856</b>   |
| 5       | Hernando   | Case Management Clerk          | 1   | 75%             | 0.75             | \$21,818           |
|         |            | Judicial Secretary             | 1   | 50%             | 0.5              | \$15,946           |
|         |            | Judicial Office Manager        | 0.5 | 25%             | 0.125            | \$6,381            |
|         |            | <b>Total</b>                   |     |                 | <b>1.375</b>     | <b>\$44,145</b>    |
|         | Marion     | Staff Assistant I              | 1   | 100%            | 1                | \$23,944           |
|         |            | Substitute Judicial Assistant  | 1   | 50%             | 0.5              | \$13,161           |
|         |            | <b>Total</b>                   |     |                 | <b>1.5</b>       | <b>\$37,105</b>    |
|         |            | <b>Circuit Total</b>           |     |                 | <b>2.875</b>     | <b>\$81,250</b>    |
| 6       | Pinellas   | Criminal Admin. Coordinator    | 1   | 100%            | 1                | \$67,557           |
|         |            | Senior Records Specialist      | 1   | 100%            | 1                | \$47,146           |
|         |            | Senior Office Specialist       | 1   | 100%            | 1                | \$42,908           |
|         |            | Clerical Assistant             | 1   | 100%            | 1                | \$32,186           |
|         |            | Office Specialist              | 2   | 25-50%          | 0.75             | \$23,449           |
|         |            | <b>Total</b>                   |     |                 | <b>4.75</b>      | <b>\$213,246</b>   |
|         |            | <b>Circuit Total</b>           |     |                 | <b>4.75</b>      | <b>\$213,246</b>   |
| 7       | St. Johns  | Office Specialist III          | 0.5 | 100%            | 0.5              | \$14,576           |
|         |            | <b>Total</b>                   |     |                 | <b>0.5</b>       | <b>\$14,576</b>    |
|         | Volusia    | Senior Court Services Officer  | 1   | 100%            | 1                | \$36,641           |
|         |            | Court Services Officer I       | 1   | 100%            | 1                | \$34,304           |
|         |            | Court Services Officer II      | 1   | 100%            | 1                | \$31,699           |
|         |            | Staff Assistant II             | 1   | 100%            | 1                | \$27,476           |
|         |            | <b>Total</b>                   |     |                 | <b>4</b>         | <b>\$130,120</b>   |
|         |            | <b>Circuit Total</b>           |     |                 | <b>4.5</b>       | <b>\$144,696</b>   |

**Recommendations to Increase Efficiency/Reduce Costs of  
Essential Judicial System Activities**

**EXHIBIT 2-20 (Continued)  
COUNTY-PAID CASE MANAGEMENT POSITIONS AND PERSONNEL COSTS  
BY COUNTY AND CIRCUIT, FY2000**

| Circuit | County  | Position                           | FTE  | % on<br>program | Allocated<br>FTE | Personnel<br>Costs |
|---------|---------|------------------------------------|------|-----------------|------------------|--------------------|
| 8       | Alachua | Court Program Specialist II        | 1    | 100%            | 1                | \$39,759           |
|         |         | Court Program Specialist I         | 2    | 100%            | 2                | \$63,946           |
|         |         | Administrative Assistant II        | 2    | 100%            | 2                | \$63,974           |
|         |         | <b>Total</b>                       |      |                 | <b>5</b>         | <b>\$167,679</b>   |
|         |         | <b>Circuit Total</b>               |      |                 | <b>5</b>         | <b>\$167,679</b>   |
| 9       | Orange  | Court Program Specialist I         | 4    | 100%            | 4                | \$154,236          |
|         |         | Juvenile Justice Coordinator       | 1    | 35%             | 0.35             | \$16,452           |
|         |         | Administrative Assistant           | 1    | 25%             | 0.25             | \$10,236           |
|         |         | Senior Secretary                   | 1    | 25%             | 0.25             | \$6,287            |
|         |         | Pay Up Program Coordinator         | 1    | 50%             | 0.5              | \$20,505           |
|         |         | <b>Total</b>                       |      |                 | <b>5.35</b>      | <b>\$207,716</b>   |
|         | Osceola | Administrative Assistant           | 1    | 25%             | 0.25             | \$10,638           |
|         |         | <b>Total</b>                       |      |                 | <b>0.25</b>      | <b>\$10,638</b>    |
|         |         | <b>Circuit Total</b>               |      |                 | <b>5.6</b>       | <b>\$218,354</b>   |
| 10      | Polk    | Juvenile Court Director            | 1    | 100%            | 1                | \$55,617           |
|         |         | Felony Trial Coordinator           | 1    | 100%            | 1                | \$40,031           |
|         |         | Counselor/Drug Court Treatment     | 2    | 100%            | 2                | \$79,056           |
|         |         | Delinquency Court Manager          | 1    | 100%            | 1                | \$46,020           |
|         |         | Juvenile Sec. Switchboard Oper.    | 1    | 100%            | 1                | \$22,580           |
|         |         | Juvenile JA/Processor              | 1    | 100%            | 1                | \$23,292           |
|         |         | Deputy Court Manager               | 1    | 100%            | 1                | \$32,644           |
|         |         | <b>Total</b>                       |      |                 | <b>8</b>         | <b>\$299,240</b>   |
|         |         | <b>Circuit Total</b>               |      |                 | <b>8</b>         | <b>\$299,240</b>   |
| 11      | Dade    | Judicial Support Administrator III | 2    | 100%            | 2                | \$196,052          |
|         |         | Judicial Support Administrator II  | 4    | 100%            | 4                | \$320,482          |
|         |         | Judicial Support Administrator I   | 1    | 100%            | 1                | \$41,721           |
|         |         | Judicial Services Coordinator II   | 1    | 100%            | 1                | \$57,950           |
|         |         | Judicial Services Coordinator I    | 17   | 100%            | 17               | \$865,588          |
|         |         | Ex-Parte Clerk                     | 7    | 100%            | 7                | \$358,238          |
|         |         | Court Legal Advisor I              | 4    | 100%            | 4                | \$284,870          |
|         |         | Mental Health Evaluation Coord.    | 1    | 100%            | 1                | \$84,225           |
|         |         | Domestic Violence Coordinator      | 3    | 100%            | 3                | \$174,457          |
|         |         | Judicial Support Specialist II     | 6.98 | 100%            | 6.98             | \$310,454          |
|         |         | Judicial Support Specialist I      | 1    | 100%            | 1                | \$31,781           |
|         |         | Office Support Specialist II       | 1    | 100%            | 1                | \$28,086           |
|         |         | Administrative Secretary           | 1    | 100%            | 1                | \$34,110           |
|         |         | Court Services Specialist          | 1    | 100%            | 1                | \$42,545           |
|         |         | <b>Total</b>                       |      |                 | <b>50.98</b>     | <b>\$2,830,559</b> |
|         |         | <b>Circuit Total</b>               |      |                 | <b>50.98</b>     | <b>\$2,830,559</b> |

**EXHIBIT 2-20 (Continued)  
COUNTY-PAID CASE MANAGEMENT POSITIONS AND PERSONNEL COSTS  
BY COUNTY AND CIRCUIT, FY2000**

| <b>Circuit</b> | <b>County</b>       | <b>Position</b>                 | <b>FTE</b> | <b>% on<br/>program</b> | <b>Allocated<br/>FTE</b> | <b>Personnel<br/>Costs</b> |
|----------------|---------------------|---------------------------------|------------|-------------------------|--------------------------|----------------------------|
| <b>12</b>      | <b>Manatee</b>      | Family Law Intake Officer       | 1          | 100%                    | 1                        | \$36,396                   |
|                |                     | <b>Total</b>                    |            |                         | <b>1</b>                 | <b>\$36,396</b>            |
|                |                     | <b>Circuit Total</b>            |            |                         | <b>1</b>                 | <b>\$36,396</b>            |
|                |                     |                                 |            |                         |                          |                            |
| <b>13</b>      | <b>Hillsborough</b> | Deputy Director, Mediation      | 1          | 100%                    | 1                        | \$63,398                   |
|                |                     | Court Program Manager           | 3          | 100%                    | 3                        | \$161,786                  |
|                |                     | Court Program Specialist I      | 9          | 100%                    | 9                        | \$424,519                  |
|                |                     | Senior Administrative Aide      | 1          | 100%                    | 1                        | \$39,729                   |
|                |                     | Administrative Aide             | 6          | 100%                    | 6                        | \$192,381                  |
|                |                     | Senior Program Assistant        | 1          | 100%                    | 1                        | \$48,934                   |
|                |                     | Senior Court Ops. Consultant    | 1          | 50%                     | 0.5                      | \$40,274                   |
|                |                     | <b>Total</b>                    |            |                         | <b>21.5</b>              | <b>\$971,021</b>           |
|                |                     | <b>Circuit Total</b>            |            |                         | <b>21.5</b>              | <b>\$971,021</b>           |
| <b>15</b>      | <b>Palm Beach</b>   | On Call                         | 1          | 25-50%                  | 0.375                    | \$8,073                    |
|                |                     | Legal Clerk                     | 2          | 100%                    | 2                        | \$64,025                   |
|                |                     | Juvenile Victim Assistance Inv. | 2          | 100%                    | 2                        | \$95,876                   |
|                |                     | Legal Secretary                 | 3          | 33-100%                 | 2.33                     | \$82,961                   |
|                |                     | Secretary                       | 1          | 100%                    | 1                        | \$27,073                   |
|                |                     | Senior Clerk Typist             | 1          | 50%                     | 0.5                      | \$12,626                   |
|                |                     | Receptionist II                 | 1          | 100%                    | 1                        | \$22,003                   |
|                |                     | Domestic Violence Intake Spec.  | 3          | 100%                    | 3                        | \$66,853                   |
|                |                     | Probation Court Clerk           | 1          | 100%                    | 1                        | \$52,488                   |
|                |                     | <b>Total</b>                    |            |                         | <b>13.205</b>            | <b>\$431,978</b>           |
|                |                     | <b>Circuit Total</b>            |            |                         | <b>13.205</b>            | <b>\$431,978</b>           |
| <b>16</b>      | <b>Monroe</b>       | Family Court Assistant          | 1          | 100%                    | 1                        | \$35,360                   |
|                |                     | Program Specialist              | 2          | 100%                    | 2                        | \$72,080                   |
|                |                     | <b>Total</b>                    |            |                         | <b>3</b>                 | <b>\$107,440</b>           |
|                |                     | <b>Circuit Total</b>            |            |                         | <b>3</b>                 | <b>\$107,440</b>           |
| <b>17</b>      | <b>Broward</b>      | Asst. Court Admin/Family Court  | 1          | 100%                    | 1                        | \$84,322                   |
|                |                     | Staff Attorney                  | 2          | 100%                    | 2                        | \$90,972                   |
|                |                     | Criminal Case Coordinator       | 2          | 100%                    | 2                        | \$86,604                   |
|                |                     | Administrative Specialist III   | 3          | 100%                    | 3                        | \$85,039                   |
|                |                     | Court Case Manager              | 6          | 100%                    | 6                        | \$230,438                  |
|                |                     | Case Manager Supervisor         | 1          | 100%                    | 1                        | \$58,223                   |
|                |                     | Court Case Mgr./Investigator    | 2          | 25-75%                  | 1                        | \$35,568                   |
|                |                     | Legal Assistant Specialist      | 1          | 100%                    | 1                        | \$36,423                   |
|                |                     | <b>Total</b>                    |            |                         | <b>17</b>                | <b>\$707,589</b>           |
|                |                     | <b>Circuit Total</b>            |            |                         | <b>17</b>                | <b>\$707,589</b>           |

**Recommendations to Increase Efficiency/Reduce Costs of  
Essential Judicial System Activities**

**EXHIBIT 2-20 (Continued)  
COUNTY-PAID CASE MANAGEMENT POSITIONS AND PERSONNEL COSTS  
BY COUNTY AND CIRCUIT, FY2000**

| <b>Circuit</b> | <b>County</b> | <b>Position</b>                | <b>FTE</b> | <b>% on<br/>program</b> | <b>Allocated<br/>FTE</b> | <b>Personnel<br/>Costs</b> |
|----------------|---------------|--------------------------------|------------|-------------------------|--------------------------|----------------------------|
| <b>18</b>      | Brevard       | Court Program Specialist I     | 2          | 100%                    | 2                        | \$79,066                   |
|                |               | Court Program Specialist II    | 2          | 50-100%                 | 2.5                      | \$109,844                  |
|                |               | <b>Total</b>                   |            |                         | <b>4.5</b>               | <b>\$188,910</b>           |
|                | Seminole      | Assistant Coordinator          | 3          | 100%                    | 3                        | \$121,528                  |
|                |               | <b>Total</b>                   |            |                         | <b>3</b>                 | <b>\$121,528</b>           |
|                |               | <b>Circuit Total</b>           |            |                         | <b>7.5</b>               | <b>\$310,438</b>           |
| <b>19</b>      | St. Lucie     | Deputy Court Administrator     | 1          | 100%                    | 1                        | \$60,307                   |
|                |               | Program Specialist I           | 1.5        | 100%                    | 1.5                      | \$48,887                   |
|                |               | Administrative Secretary       | 1          | 100%                    | 1                        | \$34,841                   |
|                |               | <b>Total</b>                   |            |                         | <b>3.5</b>               | <b>\$144,035</b>           |
|                |               | <b>Circuit Total</b>           |            |                         | <b>3.5</b>               | <b>\$144,035</b>           |
| <b>20</b>      | Collier       | Domestic Violence Coordinator  | 1          | 100%                    | 1                        | \$38,524                   |
|                |               | Program Specialist I/DV PT     | 0.5        | 100%                    | 0.5                      | \$11,202                   |
|                |               | Program Specialist I/DV        | 1          | 100%                    | 1                        | \$25,923                   |
|                |               | Program Specialist I           | 1          | 100%                    | 1                        | \$24,600                   |
|                |               | DV Family Law Investigator     | 1          | 100%                    | 1                        | \$34,461                   |
|                |               | <b>Total</b>                   |            |                         | <b>4.5</b>               | <b>\$134,710</b>           |
|                | Lee           | Domestic Violence Coordinator  | 1          | 75%                     | 0.75                     | \$33,090                   |
|                |               | Domestic Violence Case Mgr.    | 1          | 100%                    | 1                        | \$32,002                   |
|                |               | DV Family Law Investigator     | 1          | 75%                     | 0.75                     | \$25,955                   |
|                |               | DV Probation Officer           | 3          | 75-100%                 | 2.75                     | \$105,332                  |
|                |               | Senior Family Law Investigator | 1          | 100%                    | 1                        | \$57,960                   |
|                |               | Program Specialist             | 3          | 100%                    | 3                        | \$75,681                   |
|                |               | Secretary III                  | 3.74       | 100%                    | 3.74                     | \$97,142                   |
|                |               | Secretary II                   | 1.75       | 50-100%                 | 1.375                    | \$33,926                   |
|                |               | Court Investigator             | 5          | 25-50%                  | 1.5                      | \$47,591                   |
|                |               | <b>Total</b>                   |            |                         | <b>15.865</b>            | <b>\$508,679</b>           |
|                |               | <b>Circuit Total</b>           |            |                         | <b>20.365</b>            | <b>\$643,389</b>           |

Source: OSCA Analysis of Revision 7 Elements

In the larger circuits, court administration has established Differentiated Case Management (DCM), in which cases are handled according to their degrees of seriousness, difficulty and complexity. Using DCM, cases are placed on different “tracks” according to particular characteristics. For instance, an uncontested dissolution of marriage, which would use relatively little judicial resources, could be placed on a track for expedited handling. Other, more complicated cases would be placed on tracks that refer the parties to mediation, treatment, or social services before reaching the courtroom.

The number of cases of a particular type also impacts the case management activities performed. For instance, in the 11<sup>th</sup> Circuit, the large number of domestic violence cases and the strict timelines for hearings and case disposition were the impetus for creation of a domestic violence division. At present, seven full-time judges sit in the division and handle 8,000 misdemeanors per year. A domestic violence unit also exists in the 20<sup>th</sup> Circuit.

One of the few case management activities found in every circuit is drug court. By statute (397.334, F.S.), each judicial circuit in the state was mandated to establish a treatment-based drug court model. To facilitate compliance with this mandate, OSCA added one drug court coordinator position to each court administrator’s office.

Though not standardized, almost every circuit also has adopted some sort of calendaring or scheduling process. The court administrator’s office in the 11<sup>th</sup> Circuit, with 113 judges, has instituted a calendaring workbench, or automated calendaring system, to handle the scheduling of cases and has dedicated one position to oversee the system. Smaller circuits may rely on one or more individuals to develop schedules by hand.

### **2.8.3 Stakeholder Entity Input**

The Trial Court Budget Commission has determined that case management is an essential function of the Florida courts system proper. In addition, the Commission on Trial Court Performance and Accountability has divided case management functions into the following three categories:

- **Access:** intake, screening, and evaluation of cases; pro se coordination and assistance;
- **Case Processing:** caseflow monitoring and case tracking; coordination of cases with other divisions, areas, or parties; scheduling of cases and/or events; and
- **Service Coordination:** coordination and tracking compliance of litigants; service referral to internal court-based, court-connected or external services and resources; coordination, monitoring, and tracking clients' progress in treatment programs.

In addition, Florida Clerks of Court are working with the state's trial courts and the Office of the State Courts Administrator to clearly define the functions and duties of both the clerks and court administration. The Report on the Findings and Agreements of the Joint Trial Court/Office of the State Courts Administrator/Florida's Clerks of Court Workgroup on Functions and Duties released in February 2003 concluded that:

- Clerks of court would no longer use the term "Case Management" in referring to tasks performed as a function of case maintenance, but would apply the term "case maintenance";
- Trial courts would no longer use the term "intake" to refer to case screening and evaluation, since initial system intake is a clerk function; and
- Trial court utilization of the term "adjudication support" presented the perception of an "all encompassing" support function without delineation and it was agreed that the appropriate term to define the intent of the function description was "Case Management" and that the term "adjudication support" would no longer be used.

The workgroup also produced a matrix of administration and process support of the trial courts with associated recommendations as to which entity should provide the support. This matrix and the report are included as Appendices L1 and L2.

#### **2.8.4 National Best Practices**

Brian J. Ostrom, Roger A. Hanson, in conjunction with the National Center for State Courts and the American Prosecutors Research Institute, conducted research on the expedience of cases handled in nine state criminal trial courts, and collected their findings in a report titled “Efficiency, Timeliness, and Quality: A New Perspective from Nine State Criminal Trial Courts.” State criminal trial courts in nine cities across the country were evaluated to determine how case processing timeliness and quality are related. The analysis attempted to determine why some court systems come closer to the time standards articulated by the American Bar Association and the Conference of State Court Administrators. The study was divided into three parts:

- Investigate the extent to which caseload characteristics, management strategies, and resources contribute to differences in the pace of felony litigation.
- Analyze why some cases are processed more quickly than others by testing the influence of a variety of individual case- and defendant-related factors thought to shape case processing time.
- Examine whether attorneys’ attitudes about key dimensions of case processing quality vary systematically with the speed of case processing.

Key findings in the analysis include:

- The kinds of cases found in the nine courts were relatively similar with drug-related offenses the most prevalent followed by burglary and theft offenses.
- There is no relationship between either cases resolved per judge or resolutions per prosecutor and case processing time.
- The severity of the offense, the method of resolution (trial versus guilty plea), the defendant’s bond status, and the additional

scheduling involved when a bench warrant is issued are key determinants of processing time in all courts.

- While the nine courts handle their common caseloads with a relative degree of timeliness, the absolute elapsed time for the total caseload is longer in some of the systems than in others.
- The more expeditious courts are more conducive to effective advocacy. Attorneys in the most expeditious courts were much more likely to believe they had sufficient resources and that the court promulgated clear and decisive policies on case resolution.
- In the less expeditious courts, the prosecutors and defense attorneys tended to see resource shortages, even though the number of cases per prosecutor and the number of cases per judge were not higher in the less expeditious systems.
- The subjective working conditions of attorneys in the expeditious courts are more conducive to effective advocacy, due process, and quality than the conditions in the less expeditious courts.

Lastly, Ostrom and Hanson write, “Taken together, these findings imply the need for a basic rethinking about timeliness and quality in American state criminal courts. . . . Efficiency is fundamental to timeliness and a court system’s provision of effective advocacy.”

In its “Funding State Courts: Trends in 2002: Budget Woes and Resourceful Thinking” report, the National Center for State Courts discussed the effects of budget cuts on court operations related to case management.

Drug courts, for example, have become a key component in intergovernmental efforts to treat drug dependence, improving societal efforts to get drug offenders into treatment programs. . . . Every dollar spent on drug courts and related treatment programs yields manifold returns in reduced drug-related crime, criminal justice (law enforcement, prosecution, and corrections) costs, and theft. . . . Despite such successes, the current economic downturn is threatening these socially effective, problem-solving collaborations in Virginia and other states. Discontinuation of such programs is likely to increase domestic and criminal cases in the long term and correctional expenses in the short term because those who might otherwise be diverted to alternative programs must now be incarcerated. Given the immediate impact on correctional budgets (over \$20,000 annually per offender), might state officials consider shifting some correctional funds to preserve effective treatment and community service programs . . . including drug courts?



The “Trial Court Performance Standards” issued by the Bureau of Justice Assistance (BJA) of the U.S. Department of Justice devoted an entire section of standards to “Expedition and Timeliness.” Standards relating to case management found in that section and other areas of the report include:

- Standard 2.1, Case Processing, requires that trial courts establish and comply with recognized guidelines for timely case processing while keeping current with the incoming caseload. According to the standard, several national groups, including the American Bar Association, the Conference of Chief Justices, and the Conference of State Court Administrators, have urged the adoption of similar time standards for expeditious caseload management.
- Standard 2.2, Compliance with Schedules, requires that trial courts provide reports and information according to required schedules and guidelines for both internal and external sources.
- Standard 4.2, Accountability for Public Resources, requires trial courts to responsibly seek, use, and account for public resources. The standard states, “Resource allocation to cases, categories of cases, and case processing are at the heart of trial court management. Assignment of judges and allocation of other resources must be responsive to established case processing goals and priorities, implemented effectively, and evaluated continuously.”
- Standard 5.2, Expeditious, Fair and Reliable Court Functions, requires that trial courts instill in the public trust and confidence that basic court functions are conducted expeditiously and fairly, through compliance with other standards outlined in the BJA report.

#### **2.8.5 Other State Practices**

Many states have addressed their case management issues, with some, including New York, Washington, and Virginia, releasing reports or manuals that recommend changes in current processes or attempt to implement standard procedures. Washington’s “Project 2001: Coordinating Judicial Resources for the New Millennium” report detailed four recommendations for improving the state’s case management activities:

- Caseload management reports should be prepared and made available to all judges and administrators in the state.

- The state court administrator's office should establish an ongoing committee to address improvement of caseload management reports, develop and disseminate approaches to individual case management, develop a training curriculum, and provide judicial education on the effective and efficient management of cases and caseloads.
- The state court administrator's office should provide and publish reports by which judges measure their efficiency in management of cases across the entire spectrum of cases for which that court has responsibility.
- The Board of Judicial Administration in the state should establish a workgroup to study the discovery rules in the trial courts, with the goal of achieving effective and efficient case management.

Virginia's "Caseflow Management" report details case management steps from docket call to requests for subpoenas to developing caseflow management programs. New York state publishes a similar "Case Management Handbook," designed to encourage uniform delivery of case management functions across the state.

In addition, according to its 2001 "24<sup>th</sup> Annual Report of the Chief Administrator of the Courts," the New York judicial system has established standards and goals to provide performance measures for the courts reflecting the time elapsed from case filing to disposition.

California courts operate under a uniform statewide procedure for active case management.

Implementation of an integrated, effective caseload management process by each court in the state is a major recommendation of the Ohio Courts Futures Commission Report. It was also recommended that the Supreme Court continue to improve its computerized reporting systems and enforce mandatory reporting guidelines.

In response to funding shortages, the Delaware Supreme Court created the Court Resources Task Force, which studied the effectiveness of budget and staffing structures within the court system, among other things. With regard to case management, the Task

Force recommended continuation of the Case Management Off-the-Shelf Software (COTS) initiative, redesigning court workflows where appropriate to create efficiencies in acquiring a single case management system.

New Jersey has implemented an Automated Case Management System (ACMS), which is an online system linked to a central mainframe at the Administrative Office of the Courts in Trenton. The system was developed to improve case processing in the trial courts and to provide county and judicial personnel the ability to record case information, and manage and schedule cases. Features of the system include:

- Local direct filing of documents in the county court with automatic assignment of a docket number;
- Statewide judgement inquiries on parties, attorneys, judgements, service and executions, and judges;
- Standardized management reports;
- Court calendars;
- Notices;
- Cash receipt journals;
- Disbursement reports; and
- Management of disposed cases

New Jersey has also adopted best practices for case management based on a series of meetings of the presiding/assignment judges in each of the 15 districts in the state. Since adoption of these best practices, each district submits regular reports outlining their compliance with the best practices. In addition to the reports, a state-level visitation team periodically visits each district to ensure compliance and assists with any implementation needs. Some of the best practices for civil case management include (See Appendix H9 for Civil Part Best Practices for more detail):

- Assignment of all cases to a specific 'track.' The four standardized tracks include: (1) 150 days' discovery, (2) 300 days' discovery, (3)

450 days' discovery, and (4) Active Case Management by Individual Judge/450 days' discovery or Mass Tort;

- Every case on Tracks 1-3 is handled by the same "pretrial judge" from filing through discovery, and all cases on Track 4 are handled by the same "managing judge" from filing through trial;
- Specific calendaring standards such as:
  - Where the use of services is better served;
  - No county will hold an advance calendar call;
  - Where duties are largely ministerial, computational, or managerial;
  - Cases may be listed for trial call on the first three days of a trial week;
  - If a case is not reached during the week of the trial date, it should be relisted for a trial date certain after consultation with counsel;
  - No case should be relisted sooner than four weeks from the initial trial date without the agreement of counsel.; and
  - Attorneys need not appear at trial calls subsequent to the initial call for their case in the trial week unless the case can reasonably be expected to be sent out for settlement discussion or trial on that subsequent date;
- Recommendation that early mediation be considered for all fee-shifting and fund-in-court cases; and
- No court events will be scheduled during the stay when a case is ordered stayed during court-ordered mediation.

#### **2.8.6 Recommendations**

##### **RECOMMENDATION 2.8-1:**

**Define specific case management responsibilities and activities applicable to all circuits and counties to minimize the variability in functions and positions currently classified as case management. Differences in the functions and activities performed by court administration vs. court clerks should also be addressed.**

Case management may be generally defined as the coordination of time and events involved in the movement of cases through the court system from initiation through disposition. Within this general definition, however, the specific processes and activities involved vary substantially from circuit to circuit. Some variation is due to differences in

the size, composition and complexity of the operations and some is due to local priorities and personal preferences. The position titles of personnel involved in “case management” are also diverse, including:

- case coordinator;
- program assistant;
- intake specialist;
- office manager;
- secretary;
- records specialist;
- clerical assistant;
- investigator;
- probation officer
- legal advisor; and
- switchboard operator

The allocation of responsibilities and activities between court administration and clerk of the court also vary widely from county to county.

The case management function is a management tool developed by the courts to enhance the effectiveness and efficiency of the trial court system. The function, however, should be more specifically defined and that definition should be consistent from circuit to circuit. This will help to ensure that important activities are effectively performed and that unnecessary or duplicative activities are avoided. These definitions and determinations are particularly critical because of the funding changes that will occur with implementation of Revision 7. Developing them, however, will require comprehensive, intensive analyses of case management activities performed by both court administration and the court clerk. The definitions and responsibilities will need to be determined for each type of case in each court division and may need to reflect differences among small, medium and large circuits. The activity definitions should also specify the primary steps performed in completing a unit of output for that activity.

Development of the definitions necessary to implement this recommendation should be the responsibility of the Trial Court Performance and Accountability Commission, OSCA staff, and the Florida Association of Court Clerks, possibly supplemented by a task force of court clerks from representative counties. The results should be presented to the Supreme Court for adoption, in consultation with the legislature. It may be noted that a joint workgroup of OSCA and FACC was recently formed to address these issues and their report indicated agreement in many areas when conflicts or duplications currently exist.

#### **RECOMMENDATION 2.8-2:**

**Establish workload-based staffing standards and performance/level of service standards for each case management activity defined in Recommendation 8-1. The standards should be developed using a highly structured and controlled Delphi approach, similar to methodology used for the judicial weighted caseload study.**

Not only is there substantial variation in case management practices and a lack of responsibility and activity definitions, but also case management costs have not been

recorded separately. The UCA includes them with “court administration” costs. Therefore, historical data is not available to help establish definitive budget and staffing requirements or performance measures and standards.

The options considered for developing the data necessary to develop reasonable budget and staffing requirements included:

- Immediately initiate a data collection effort to record historical time and cost data that could better quantify current costs;
- Request that the Trial Court Performance and Accountability Commission and OSCA staff develop estimates of budget and staffing requirements; and
- Conduct an objective, engineered study to develop workload-based staffing standards and standards for performance/level of service.

We determined that the first option was not feasible since, if the data collection results are to be reliable and useable, they should be based upon specific case management responsibilities and predefined work activities, which do not currently exist. In addition, and more importantly, the data would only reflect the amount of time and cost currently being expended. If the new definitions result in significant responsibility and activity changes, as we believe they will, the data will not reflect those changes. There could also be a tendency for court personnel to “inflate” the amount of time and cost reported since it will be common knowledge that the results are to be used as the basis for future budgets and staffing determinations.

The second option could be viable if the commission and OSCA believe they have sufficient knowledge of case management processes, how they should be performed, and how much time each process *should* take. These estimates may not be acceptable to the legislature, however, since there could be concerns regarding objectivity.

We recommend the third option as the preferred means for developing reliable standards for this very important, high-cost element. The study should logically be part of the comprehensive study discussed in Recommendation 2.8-1 since a clear understanding of the work activity definitions is needed to establish the standards. The most cost-effective method for establishing standards is a Delphi approach, similar to the judicial weighted caseload study but in a more highly structured and controlled setting. The standards should then be tested and validated by applying sample workload data. Funding formulas should then be developed to calculate the number and cost not only of first-line personnel performing case management activities but also their supervisors. The related performance measures and level of service standards should also be developed as part of the study.

Implementation of this recommendation will necessitate:

- joint participation by the legislature and the courts in the project to encourage mutual acceptance of the results;
- establishment of plans and specifications for the study;

- determination as to whether an outside expert is needed to conduct the project; and
- appropriation of funding for the project.

**RECOMMENDATION 2.8-3:**

**Establish monthly case management budgets for each circuit and monitor expenditures and workload against those budgets. OSCA should prepare and issue monthly, statewide, comparative reports for all circuits and distribute to each circuit and the Legislature.**

The annual court budget for each circuit should include case management costs as a separate budget item. As described above, however, establishing the initial budgets will be difficult without reliable historical data. However, OSCA did collect case management costs through their survey and that data should provide some insight. Court management will need to use this information as well as their experience and judgment to develop the FY 2005 budget.

A system to collect actual court management expenditures should be established as soon as possible and the results monitored through monthly reports. The costs should initially be recorded in broad categories, such as court divisions, until the recommended activity definition and standards study is completed. At that point, the budgeting and reporting systems should incorporate the study results.

Actual expenditures during the year should be monitored through monthly reports that also include key case management volume data. These actual results should be compared to the monthly and year-to-date budgets. The court in each circuit should provide a copy of their monthly report to OSCA who will prepare a statewide comparative report encompassing all circuits. Copies of the report should be distributed to each circuit as well as the legislature.

**RECOMMENDATION 2.8-4:**

**Implement certain operational improvements including calendaring workbench tools, balancing of judicial calendars across all weekdays, and pro se litigant forms, written guidelines, and advice and assistance.**

Several specific operational improvement opportunities were identified during site visits to the sample circuits and counties. Some circuits/counties have already implemented these practices while others may require significant investments before the changes can be made. The recommendations are as follows:

- Install the calendaring workbench and ensure that all entities in the circuit that are involved in the adjudication process have access to the scheduling information. This would include the court, state attorney, public defender, clerk of court, law enforcement and court security, corrections, the legal community, and the public.

- Manage judicial calendars so workload is balanced throughout the week. Avoid Monday workload peaks for juror orientations, assignments, etc.
- Provide appropriate forms, written guidelines, advice and assistance to pro se litigants to save judicial time and to help avoid procedural errors.

#### **2.8.7 Potential Cost Reductions**

The counties currently fund most case management costs. As noted previously, however, these costs are recorded under the court administration UCA codes. Additional case management costs are probably recorded under certain program budgets, e.g., adult drug court, domestic violence court and pro se service. A very rough estimate of total case management costs for FY 2000 is \$15 to \$20 million.

We estimate these costs could be reduced by 15 to 20 percent through implementation of the four recommendations just described. This estimate is based on our experience with similar studies involving independent entities that perform the same basic function without centralized management and control and with little standardization of policies and procedures. Furthermore, our experience in developing and implementing scores of workload-based staffing and performance standards programs for a wide range of state and local government agencies is that the results are typically productivity improvements of 20 to 30 percent. The improvements may be realized through direct cost reductions or cost-avoidance savings.

### **2.9 Court Administration**

#### **2.9.1 Definition/Description**

The Florida Constitution provides authority for administrative supervision of the courts to the Chief Justice of the Supreme Court and to the chief judge of each circuit.



To discharge these responsibilities, the chief judges are assisted by OSCA and an administrative function in each circuit.

Court administration includes the general administrative areas of purchasing, personnel, finance, auditing, budgeting and procurement. Additional activities include providing ADA coordination, public information, senior judge administration, process server certification and records management.

Operating expenses categorized as court administration include legal advertisements, vehicles, office supplies, furniture and equipment freight costs, relocation expenses, training, print shop services, mailroom, supply room, grant and contract administration, and executive direction.

For budgeting and staffing purposes, the Trial Court Budget Commission and OSCA have standardized staffing for executive direction as three positions: Court Administrator, Chief Deputy Court Administrator, and one assistant.

The counties reported expenditures for court administration of more than \$46 million for FY2000. However, these reported expenditures include “case management” costs, which have been estimated to be approximately 36% of the reported expenditure. Court administration expenditures, therefore, would be approximately \$30 million.

### **2.9.2 Program Delivery Variations**

While every circuit in the state provides some level of court administration, the level of administration provided varies from circuit to circuit. For instance, smaller circuits like the Third Circuit require a limited infrastructure to operate. General administrative functions (purchasing, personnel, and office management) are performed by one FTE (Administrative Assistant III). One Senior Deputy Court Administrator performs general administration duties and ADA coordination, as well as functions outside court administration such as mediation and court interpreter coordination and jury

management. The Third Circuit Court Administrator provides general oversight of court operations, along with production of court schedules and other duties outside court administration such as oversight of the Guardian ad Litem and court reporting programs. At the opposite end of the spectrum is the 11<sup>th</sup> Circuit (Miami-Dade), which employs nearly 80 staff to perform court administration duties. Four positions are responsible for planning and budgeting duties, six handle finance and accounting, six handle personnel issues, and seven perform procurement duties. Exhibit 2-21 shows the county-paid positions and personnel costs related to court administration by circuit and county for FY 2000.

**Recommendations to Increase Efficiency/Reduce Costs of  
Essential Judicial System Activities**

**EXHIBIT 2-21  
COUNTY-PAID COURT ADMINISTRATION POSITIONS AND PERSONNEL  
COSTS BY COUNTY AND CIRCUIT, FY2000**

| <b>Circuit</b> | <b>County</b> | <b>Position</b>                 | <b>FTE</b> | <b>% on<br/>program</b> | <b>Allocated<br/>FTE</b> | <b>Personnel<br/>Costs</b> |
|----------------|---------------|---------------------------------|------------|-------------------------|--------------------------|----------------------------|
| <b>1</b>       | Escambia      | Office Manager                  | 1          | 100%                    | 1                        | \$48,913                   |
|                |               | Admin. Assistant to Chief Judge | 1          | 100%                    | 1                        | \$41,925                   |
|                |               | Senior Student Intern           | 0.5        | 100%                    | 0.5                      | \$7,923                    |
|                |               | Student                         | 1          | 50%                     | 0.5                      | \$5,828                    |
|                |               | Personnel Technician            | 1          | 100%                    | 1                        | \$31,976                   |
|                |               | <b>Total</b>                    |            |                         | <b>4</b>                 | <b>\$136,565</b>           |
|                | Okaloosa      | Court Admin. Coordinator        | 1          | 50%                     | 0.5                      | \$23,828                   |
|                |               | <b>Total</b>                    |            |                         | <b>0.5</b>               | <b>\$23,828</b>            |
|                |               | <b>Circuit Total</b>            |            |                         | <b>4.5</b>               | <b>\$160,393</b>           |
| <b>2</b>       | Leon          | Circuit Judge Receptionist      | 1          | 100%                    | 1                        | \$31,598                   |
|                |               | Admin. Assistant I - Case Mgr.  | 1          | 100%                    | 1                        | \$31,750                   |
|                |               | Administrative Assistant I      | 1          | 100%                    | 1                        | \$31,699                   |
|                |               | Administrative Secretary        | 1          | 100%                    | 1                        | \$29,845                   |
|                |               | Secretary I                     | 1          | 100%                    | 1                        | \$10,407                   |
|                |               | <b>Total</b>                    |            |                         | <b>5</b>                 | <b>\$135,299</b>           |
|                |               | <b>Circuit Total</b>            |            |                         | <b>5</b>                 | <b>\$135,299</b>           |
| <b>4</b>       | Duval         | Court Administrative Secretary  | 3          | 100%                    | 3                        | \$81,913                   |
|                |               | Assistant Court Administrator   | 2          | 100%                    | 2                        | \$86,542                   |
|                |               | <b>Total</b>                    |            |                         | <b>5</b>                 | <b>\$168,455</b>           |
|                |               | <b>Circuit Total</b>            |            |                         | <b>5</b>                 | <b>\$168,455</b>           |
| <b>5</b>       | Hernando      | Judicial Office Manager         | 0.5        | 75%                     | 0.375                    | \$19,143                   |
|                |               | <b>Total</b>                    |            |                         | <b>0.375</b>             | <b>\$19,143</b>            |
|                | Sumter        | Court Services Manager          | 1          | 100%                    | 1                        | \$32,294                   |
|                |               | <b>Total</b>                    |            |                         | <b>1</b>                 | <b>\$32,294</b>            |
|                |               | <b>Circuit Total</b>            |            |                         | <b>1.375</b>             | <b>\$51,437</b>            |
| <b>6</b>       | Pasco         | Budget Specialist               | 1          | 75%                     | 0.75                     | \$37,336                   |
|                |               | Office Specialist               | 3          | 100%                    | 3                        | \$80,727                   |
|                |               | Senior Court Analyst            | 1          | 100%                    | 1                        | \$50,516                   |
|                |               | Senior Deputy Court Admin.      | 1          | 100%                    | 1                        | \$81,152                   |
|                |               | <b>Total</b>                    |            |                         | <b>5.75</b>              | <b>\$249,731</b>           |

**Recommendations to Increase Efficiency/Reduce Costs of  
Essential Judicial System Activities**

**EXHIBIT 2-21 (Continued)  
COUNTY-PAID COURT ADMINISTRATION POSITIONS AND PERSONNEL  
COSTS BY COUNTY AND CIRCUIT, FY2000**

| <b>Circuit</b> | <b>County</b> | <b>Position</b>               | <b>FTE</b> | <b>% on<br/>program</b> | <b>Allocated<br/>FTE</b> | <b>Personnel<br/>Costs</b> |
|----------------|---------------|-------------------------------|------------|-------------------------|--------------------------|----------------------------|
| Pinellas       |               |                               |            |                         |                          |                            |
|                |               | Human Resources Technician    | 2          | 75-100%                 | 1.75                     | \$66,051                   |
|                |               | Asst. Manager - HR            | 1          | 100%                    | 1                        | \$45,446                   |
|                |               | Chief Deputy Court Admin.     | 1          | 100%                    | 1                        | \$106,118                  |
|                |               | Court Facilities Coordinator  | 1          | 100%                    | 1                        | \$50,254                   |
|                |               | Sr. Deputy Ct. Admin. - HR    | 1          | 100%                    | 1                        | \$84,859                   |
|                |               | Fiscal Officer                | 1          | 100%                    | 1                        | \$58,590                   |
|                |               | Office Specialist             | 2          | 50-100%                 | 1.5                      | \$51,663                   |
|                |               | Senior Records Specialist     | 3          | 100%                    | 3                        | \$108,846                  |
|                |               | Deputy Court Admin. - Family  | 2          | 100%                    | 2                        | \$91,417                   |
|                |               | <b>Total</b>                  |            |                         | <b>13.25</b>             | <b>\$663,244</b>           |
|                |               | <b>Circuit Total</b>          |            |                         | <b>19</b>                | <b>\$912,975</b>           |
| 7 Volusia      |               |                               |            |                         |                          |                            |
|                |               | Staff Assistant II            | 2          | 100%                    | 2                        | \$62,756                   |
|                |               | Assistant Court Administrator | 1          | 100%                    | 1                        | \$68,907                   |
|                |               | Senior Staff Assistant        | 1          | 100%                    | 1                        | \$31,182                   |
|                |               | <b>Total</b>                  |            |                         | <b>4</b>                 | <b>\$162,845</b>           |
|                |               | <b>Circuit Total</b>          |            |                         | <b>4</b>                 | <b>\$162,845</b>           |
| 8 Alachua      |               |                               |            |                         |                          |                            |
|                |               | Accountant III                | 1          | 100%                    | 1                        | \$34,732                   |
|                |               | Administrative Assistant II   | 1          | 100%                    | 1                        | \$31,837                   |
|                |               | Senior Deputy Court Admin.    | 1          | 50%                     | 0.5                      | \$30,767                   |
|                |               | Budget Specialist             | 1          | 100%                    | 1                        | \$39,651                   |
|                |               | <b>Total</b>                  |            |                         | <b>3.5</b>               | <b>\$136,987</b>           |
|                |               | <b>Circuit Total</b>          |            |                         | <b>3.5</b>               | <b>\$136,987</b>           |
| 9 Orange       |               |                               |            |                         |                          |                            |
|                |               | Dir. Comm. & Public Affairs   | 1          | 100%                    | 1                        | \$84,082                   |
|                |               | Graphic Artist                | 1          | 100%                    | 1                        | \$38,527                   |
|                |               | Deputy Court Administrator    | 2          | 100%                    | 2                        | \$121,190                  |
|                |               | Assistant Court Administrator | 2          | 100%                    | 2                        | \$163,941                  |
|                |               | Human Resource Coordinator    | 1          | 100%                    | 1                        | \$41,461                   |
|                |               | Administrative Assistant      | 3          | 100%                    | 3                        | \$110,455                  |
|                |               | Receptionist                  | 1          | 100%                    | 1                        | \$29,209                   |
|                |               | Director of Fiscal Services   | 1          | 100%                    | 1                        | \$61,675                   |
|                |               | Fiscal Services Analyst       | 1          | 100%                    | 1                        | \$38,333                   |
|                |               | Clerical Assistant            | 1          | 100%                    | 1                        | \$26,759                   |
|                |               | Technical Services Analyst    | 1          | 100%                    | 1                        | \$36,238                   |
|                |               | <b>Total</b>                  |            |                         | <b>15</b>                | <b>\$751,870</b>           |

**EXHIBIT 2-21 (Continued)  
COUNTY-PAID COURT ADMINISTRATION POSITIONS AND PERSONNEL  
COSTS BY COUNTY AND CIRCUIT, FY2000**

| <b>Circuit</b> | <b>County</b> | <b>Position</b>                    | <b>FTE</b> | <b>% on<br/>program</b> | <b>Allocated<br/>FTE</b> | <b>Personnel<br/>Costs</b> |
|----------------|---------------|------------------------------------|------------|-------------------------|--------------------------|----------------------------|
|                | Osceola       | Deputy Court Administrator         | 1          | 100%                    | 1                        | \$58,381                   |
|                |               | Assistant Court Administrator      | 1          | 100%                    | 1                        | \$75,379                   |
|                |               | Administrative Assistant           | 2          | 75%                     | 1.5                      | \$68,970                   |
|                |               | Administrative Secretary           | 1          | 100%                    | 1                        | \$33,895                   |
|                |               | Clerk                              | 1          | 100%                    | 1                        | \$21,438                   |
|                |               | <b>Total</b>                       |            |                         | <b>5.5</b>               | <b>\$258,063</b>           |
|                |               | <b>Circuit Total</b>               |            |                         | <b>20.5</b>              | <b>\$1,009,933</b>         |
| <b>11</b>      | Dade          | Court Administrator                | 1          | 100%                    | 1                        | \$154,525                  |
|                |               | Special Project Administrator II   | 1          | 100%                    | 1                        | \$106,454                  |
|                |               | Special Asst. to Court Admin.      | 1          | 100%                    | 1                        | \$134,094                  |
|                |               | Judicial Administration Director   | 4          | 100%                    | 4                        | \$538,763                  |
|                |               | Dir. Office of Gov't. Liaison      | 1          | 100%                    | 1                        | \$123,122                  |
|                |               | Senior Judicial Support Admin.     | 9          | 100%                    | 9                        | \$918,851                  |
|                |               | Judicial Support Administrator III | 4          | 100%                    | 4                        | \$365,084                  |
|                |               | Judicial Support Administrator II  | 15         | 100%                    | 15                       | \$1,114,516                |
|                |               | Judicial Support Administrator I   | 10.86      | 100%                    | 10.86                    | \$494,383                  |
|                |               | Admin. Asst. to Court Admin.       | 1          | 100%                    | 1                        | \$52,951                   |
|                |               | Admin. Asst. to Judicial Admin.    | 2          | 100%                    | 2                        | \$117,575                  |
|                |               | Legal Secretary II                 | 1          | 100%                    | 1                        | \$60,791                   |
|                |               | Judicial Support Specialist II     | 10         | 100%                    | 10                       | \$441,609                  |
|                |               | Judicial Support Specialist I      | 2.75       | 100%                    | 2.75                     | \$79,711                   |
|                |               | Calendar Administrator             | 1          | 100%                    | 1                        | \$65,451                   |
|                |               | Employment Specialist              | 1          | 100%                    | 1                        | \$68,318                   |
|                |               | Information Clerk                  | 4          | 100%                    | 4                        | \$117,894                  |
|                |               | Administrative Secretary           | 5          | 100%                    | 5                        | \$195,421                  |
|                |               | Administrative Assistant I         | 1          | 100%                    | 1                        | \$36,484                   |
|                |               | Training Specialist                | 1          | 100%                    | 1                        | \$47,863                   |
|                |               | Custodial Worker II                | 1.87       | 100%                    | 1.87                     | \$50,062                   |
|                |               | <b>Total</b>                       |            |                         | <b>78.48</b>             | <b>\$5,283,922</b>         |
|                |               | <b>Circuit Total</b>               |            |                         | <b>78.48</b>             | <b>\$5,283,922</b>         |
| <b>12</b>      | Manatee       | Administrative Assistant           | 1          | 100%                    | 1                        | \$27,446                   |
|                |               | Judicial Office Manager            | 1          | 100%                    | 1                        | \$37,450                   |
|                |               | <b>Total</b>                       |            |                         | <b>2</b>                 | <b>\$64,896</b>            |

**EXHIBIT 2-21 (Continued)  
COUNTY-PAID COURT ADMINISTRATION POSITIONS AND PERSONNEL  
COSTS BY COUNTY AND CIRCUIT, FY2000**

| <b>Circuit</b> | <b>County</b> | <b>Position</b>                 | <b>FTE</b> | <b>% on<br/>program</b> | <b>Allocated<br/>FTE</b> | <b>Personnel<br/>Costs</b> |
|----------------|---------------|---------------------------------|------------|-------------------------|--------------------------|----------------------------|
| Sarasota       |               |                                 |            |                         |                          |                            |
|                |               | Administrative Coordinator      | 1          | 50%                     | 0.5                      | \$15,821                   |
|                |               | Office Supervisor II            | 1          | 100%                    | 1                        | \$46,833                   |
|                |               | <b>Total</b>                    |            |                         | <b>1.5</b>               | <b>\$62,654</b>            |
|                |               | <b>Circuit Total</b>            |            |                         | <b>3.5</b>               | <b>\$127,550</b>           |
| <b>13</b>      | Hillsborough  | Chief Deputy Court Admin.       | 1          | 100%                    | 1                        | \$104,901                  |
|                |               | Director of Fiscal Affairs      | 1          | 100%                    | 1                        | \$100,956                  |
|                |               | Senior Court Ops. Consultant    | 3          | 25-100%                 | 1.5                      | \$107,809                  |
|                |               | Court Operations Consultant     | 3          | 25-100%                 | 2                        | \$133,591                  |
|                |               | Senior Court Programs Spec.     | 1          | 100%                    | 1                        | \$53,701                   |
|                |               | Senior Administrative Asst.     | 2          | 100%                    | 2                        | \$114,315                  |
|                |               | Administrative Assistant II     | 3          | 100%                    | 3                        | \$121,955                  |
|                |               | Central Office Assistant        | 1          | 100%                    | 1                        | \$27,868                   |
|                |               | Senior Fiscal Analyst           | 1          | 100%                    | 1                        | \$70,000                   |
|                |               | Purchasing Assistant            | 1          | 100%                    | 1                        | \$30,936                   |
|                |               | Senior Purchasing Specialist    | 1          | 100%                    | 1                        | \$58,111                   |
|                |               | Fiscal Assistant I              | 1          | 100%                    | 1                        | \$31,977                   |
|                |               | Fiscal Assistant II             | 1          | 100%                    | 1                        | \$36,415                   |
|                |               | Personnel Specialist            | 1          | 100%                    | 1                        | \$50,222                   |
|                |               | Personnel Assistant             | 1          | 100%                    | 1                        | \$37,401                   |
|                |               | Personnel Secretary             | 1          | 100%                    | 1                        | \$31,402                   |
|                |               | Public Information Specialist I | 2          | 100%                    | 2                        | \$62,282                   |
|                |               | Director of Facilities Mgmt.    | 1          | 100%                    | 1                        | \$61,226                   |
|                |               | Deputy Dir. of Facilities Mgmt. | 1          | 100%                    | 1                        | \$62,220                   |
|                |               | Multi-Trades Worker I           | 1          | 100%                    | 1                        | \$29,840                   |
|                |               | Multi-Trades Worker II          | 3          | 100%                    | 3                        | \$109,600                  |
|                |               | Customer Service Agent          | 2          | 75-100%                 | 1.75                     | \$51,706                   |
|                |               | Systems Integration Manager     | 1          | 25%                     | 0.25                     | \$15,035                   |
|                |               | <b>Total</b>                    |            |                         | <b>30.5</b>              | <b>\$1,503,469</b>         |
|                |               | <b>Circuit Total</b>            |            |                         | <b>30.5</b>              | <b>\$1,503,469</b>         |
| <b>15</b>      | Palm Beach    | Court Program Specialist        | 1          | 100%                    | 1                        | \$37,050                   |
|                |               | Fiscal Specialist II            | 1          | 100%                    | 1                        | \$34,190                   |
|                |               | Clerk Typist                    | 1          | 100%                    | 1                        | \$22,003                   |
|                |               | Messenger                       | 1          | 100%                    | 1                        | \$26,553                   |
|                |               | <b>Total</b>                    |            |                         | <b>4</b>                 | <b>\$119,796</b>           |
|                |               | <b>Circuit Total</b>            |            |                         | <b>4</b>                 | <b>\$119,796</b>           |

**Recommendations to Increase Efficiency/Reduce Costs of  
Essential Judicial System Activities**

**EXHIBIT 2-21 (Continued)  
COUNTY-PAID COURT ADMINISTRATION POSITIONS AND PERSONNEL  
COSTS BY COUNTY AND CIRCUIT, FY2000**

| Circuit | County   | Position                       | FTE | % on<br>program | Allocated<br>FTE | Personnel<br>Costs |
|---------|----------|--------------------------------|-----|-----------------|------------------|--------------------|
| 16      | Monroe   | Special Projects Coordinator   | 1   | 25%             | 0.25             | \$8,840            |
|         |          | <b>Total</b>                   |     |                 | <b>0.25</b>      | <b>\$8,840</b>     |
|         |          | <b>Circuit Total</b>           |     |                 | <b>0.25</b>      | <b>\$8,840</b>     |
|         |          |                                |     |                 |                  |                    |
| 17      | Broward  | Chief Deputy Court Admin.      | 1   | 100%            | 1                | \$110,636          |
|         |          | Court Auditor I                | 1   | 100%            | 1                | \$72,711           |
|         |          | Assistant Court Administrator  | 1   | 100%            | 1                | \$95,402           |
|         |          | Judicial Support Specialist    | 3   | 100%            | 3                | \$95,813           |
|         |          | Court Personnel Supervisor     | 1   | 100%            | 1                | \$64,367           |
|         |          | Personnel Analyst              | 1   | 100%            | 1                | \$41,208           |
|         |          | Court Personnel Specialist     | 2   | 100%            | 2                | \$98,084           |
|         |          | Court Analyst I                | 1   | 100%            | 1                | \$41,208           |
|         |          | Court Administration Secretary | 1   | 100%            | 1                | \$59,679           |
|         |          | Administrative Assistant       | 1   | 100%            | 1                | \$42,238           |
|         |          | Purchasing Specialist          | 1.5 | 100%            | 1.5              | \$51,308           |
|         |          | Purchasing/Facilities Coord.   | 1   | 100%            | 1                | \$51,641           |
|         |          | Facilities Maintenance Worker  | 1   | 100%            | 1                | \$29,165           |
|         |          | <b>Total</b>                   |     |                 | <b>16.5</b>      | <b>\$853,460</b>   |
|         |          | <b>Circuit Total</b>           |     |                 | <b>16.5</b>      | <b>\$853,460</b>   |
|         |          |                                |     |                 |                  |                    |
| 18      | Brevard  | Senior Deputy Court Admin.     | 2   | 100%            | 2                | \$140,540          |
|         |          | Deputy Court Administrator     | 1   | 100%            | 1                | \$64,002           |
|         |          | Legislative & Comm. Specialist | 1   | 100%            | 1                | \$49,229           |
|         |          | Administrative Assistant III   | 1   | 100%            | 1                | \$43,639           |
|         |          | Administrative Secretary II    | 1   | 100%            | 1                | \$41,579           |
|         |          | Court Program Specialist I     | 1   | 100%            | 1                | \$37,595           |
|         |          | Administrative Assistant I     | 0.5 | 100%            | 0.5              | \$16,626           |
|         |          | <b>Total</b>                   |     |                 | <b>7.5</b>       | <b>\$393,210</b>   |
|         |          |                                |     |                 |                  |                    |
|         | Seminole | Administrative Assistant       | 1   | 100%            | 1                | \$40,611           |
|         |          | <b>Total</b>                   |     |                 | <b>1</b>         | <b>\$40,611</b>    |
|         |          | <b>Circuit Total</b>           |     |                 | <b>8.5</b>       | <b>\$433,821</b>   |

**EXHIBIT 2-21 (Continued)  
COUNTY-PAID COURT ADMINISTRATION POSITIONS AND PERSONNEL  
COSTS BY COUNTY AND CIRCUIT, FY2000**

| <b>Circuit</b> | <b>County</b> | <b>Position</b>              | <b>FTE</b> | <b>% on<br/>program</b> | <b>Allocated<br/>FTE</b> | <b>Personnel<br/>Costs</b> |
|----------------|---------------|------------------------------|------------|-------------------------|--------------------------|----------------------------|
| <b>19</b>      | St. Lucie     | Administrative Secretary     | 1          | 100%                    | 1                        | \$34,805                   |
|                |               | Personnel Specialist         | 1          | 100%                    | 1                        | \$40,960                   |
|                |               | <b>Total</b>                 |            |                         | <b>2</b>                 | <b>\$75,765</b>            |
|                |               | <b>Circuit Total</b>         |            |                         | <b>2</b>                 | <b>\$75,765</b>            |
|                |               |                              |            |                         |                          |                            |
| <b>20</b>      | Charlotte     | Administrative Assistant     | 1          | 100%                    | 1                        | \$28,641                   |
|                |               | Secretary II                 | 1          | 100%                    | 1                        | \$23,544                   |
|                |               | <b>Total</b>                 |            |                         | <b>2</b>                 | <b>\$52,185</b>            |
|                | Collier       | Administrative Assistant I   | 2          | 100%                    | 2                        | \$87,788                   |
|                |               | Secretary III                | 3          | 100%                    | 3                        | \$79,359                   |
|                |               | <b>Total</b>                 |            |                         | <b>5</b>                 | <b>\$167,147</b>           |
|                | Lee           | Receptionist/Secretary III   | 1          | 100%                    | 1                        | \$26,477                   |
|                |               | Fiscal Operations Specialist | 1          | 100%                    | 1                        | \$33,298                   |
|                |               | Court Program Manager        | 1          | 100%                    | 1                        | \$70,310                   |
|                |               | Secretary III                | 2          | 100%                    | 2                        | \$57,295                   |
|                |               | Chief Deputy Court Admin.    | 1          | 100%                    | 1                        | \$120,871                  |
|                |               | Executive Assistant          | 1          | 100%                    | 1                        | \$37,538                   |
|                |               | Deputy Court Administrator   | 1          | 100%                    | 1                        | \$54,164                   |
|                |               | Senior Fiscal Officer        | 1          | 100%                    | 1                        | \$85,387                   |
|                |               | Accountant Specialist        | 1          | 100%                    | 1                        | \$36,018                   |
|                |               | Court Trainee                | 0.74       | 100%                    | 0.74                     | \$9,227                    |
|                |               | Administrative Assistant     | 1          | 100%                    | 1                        | \$35,065                   |
|                |               | Deputy Ct. Admin./HR         | 1          | 100%                    | 1                        | \$61,405                   |
|                |               | HR Specialist/Office Manager | 1          | 100%                    | 1                        | \$43,993                   |
|                |               | <b>Total</b>                 |            |                         | <b>13.74</b>             | <b>\$671,048</b>           |
|                |               | <b>Circuit Total</b>         |            |                         | <b>20.74</b>             | <b>\$890,380</b>           |

Source: OSCA Analysis of Revision 7 Elements



### **2.9.3 Stakeholder Entity Input**

The Trial Court Budget Commission (TCBC) has determined that court administration is an essential element of the courts system proper. The Funding Methodology Subcommittee of the TCBC has recommended that each trial court in the state have at least a minimal administrative infrastructure in place, and for FY2003 recommended adding 13 positions across the state in the areas of planning and budgeting, finance and accounting, personnel, and procurement. Additionally, the subcommittee recommended additional expense funding of \$40,000 for court administrative staff training and coordination.

Working with trial court administrators, the subcommittee has categorized the various functions involved in the management and administration of the courts into three general categories and several sub-categories, as follows:

- executive court management
  - administrative supervision of court staff;
  - administration of the trial court goals, policies, and resource needs;
  - liaison between the court, government and private organizations and committees;
  - oversight of the budget and court administrative operations; and
  - staff to the judiciary on policy formulation and resources.
- general administration
  - planning and budgeting;
  - finance and accounting;
  - personnel, human resources, and training;
  - communications and public information;
  - grants and contracts;
  - procurement and supplies;
  - mail room;
  - print shop; and
  - property and records management.

- judicial operations management
  - space planning;
  - facilities management;
  - coordination of policy commissions, committees, and councils;
  - collection and analysis of workload data and performance resource measurement data;
  - emergency preparedness and coordination;
  - liaison between court and other governmental organizations and committees;
  - ADA coordination;
  - court coverage and calendar coordination;
  - coordination/scheduling of courtrooms and meeting rooms;
  - coordination of volunteer programs; and
  - monitoring of jail population.

The subcommittee developed funding models for each category of activities. The funding model for Executive Court Management includes a Trial Court Administrator, Chief Deputy Court Administrator, and an Administrative Assistant II for each circuit. The General Administration funding model was based on an examination of current position allocations in circuits and the future need for additional positions to address duties currently performed by county government. They recommended position distribution of eight FTE for small circuits, 12 for medium circuits, and 20 for large circuits. Finally, the funding model for Judicial Operations Management was based on a review of the current level of services provided in small, medium, and large circuits. The subcommittee recommended a position distribution of three positions in small circuits, six in medium circuits, and 10 positions in large circuits.

In addition, Florida trial courts and OSCA are working with the state's clerks of court to clearly define the functions and duties of both the clerks and court administration. The Report on the Findings and Agreements of the Joint Trial Court/Office of the State Courts Administrator/Florida's Clerks of Court Workgroup on Functions and Duties, released in February 2003, concluded that:

- Clerks of court would no longer use the term "Case Management" in referring to tasks performed as a function of case maintenance, but would apply the term "case maintenance";
- Trial courts would no longer use the term "intake" to refer to case screening and evaluation, since initial system intake is a clerk function; and
- Trial court utilization of the term "adjudication support" presented the perception of an "all encompassing" support function without delineation and it was agreed that the appropriate term to define the intent of the function description was "Case Management" and that the term "adjudication support" would no longer be used.

The workgroup also produced a matrix of administration and process support of the trial courts with associated recommendations as to which entity should provide the support. This matrix and the report are included as Appendices L1 and L2.

#### **2.9.4 National Best Practices**

The National Association for Court Management (NACM) is developing curriculum guidelines to define core competencies for court managers and court administrative staff. The ten core competencies include:

- *Purposes and Responsibilities of Courts.* This competency is the epicenter of the core competencies, and the other nine competencies are defined by purpose.
- *Leadership.* This competency is the energy behind every court system and court accomplishment.
- *Caseflow Management.* "Effective caseflow management makes justice possible both in individual cases and across judicial systems and courts. . . . It helps ensure that every litigant receives procedural due process and equal protection."

- ***Information Technology Management.*** “Because of its potential both to improve and to entangle the judiciary, court leaders must take responsibility for the use of technology in their courts. Court leaders must ensure that technology serves the courts’ purposes and that it is managed effectively.”
- ***Human Resources Management.*** This competency not only enables performance, but also increases morale, employee perceptions of fairness, and it reflects the purposes and responsibilities of the courts.
- ***Resources, Budget and Finance.*** “The allocation, acquisition, and management of the court’s budget impacts every court operation and, arguably, determines how well and even whether courts achieve their mission in the American political system.”
- ***Education, Training and Development.*** This competency can help courts improve court and justice system performance, and the bottom line is “excellent trial court and justice system performance.”

For each competency, the NACM also is developing related “Knowledge, Skills, and Abilities” that are necessary for court managers to possess.

The Bureau of Justice Assistance of the U.S. Department of Justice, in its “Trial Court Performance Standards,” also outlines several standards related to court administration. These standards include:

- Standard 2.2, Compliance with Schedules, requires trial courts to provide information and services to those they serve in a timely and expeditious manner.
- Standard 3.1, Fair and Reliable Judicial Process, requires trial court procedures to adhere to relevant laws, procedural rules, and established policies.
- Standard 3.6, Production and Preservation of Records, requires that records of all relevant court decisions and actions be accurate and properly preserved.
- Standard 4.1, Independence and Comity, requires that trial courts maintain their institutional integrity and observe the principle of comity in their governmental relations. The standard states, “The court must achieve independent status, however, without damaging the reciprocal relationships that it maintains with others. Trial courts are necessarily dependent upon the cooperation of other components of the justice system over which they have little or no direct authority. . . . If a trial court is to attain institutional

independence, it must clarify, promote, and institutionalize effective working relationships with all other components of the justice system.”

- Standard 4.2, Accountability for Public Resources, requires that trial courts responsibly seek, use, and account for public resources. The standard states, “Effective court management requires sufficient resources to do justice and to keep costs affordable. Standard 4.2 requires that a trial court responsibly seek the resources needed to meet its judicial responsibilities, use those resources prudently (even if they are inadequate), and account for their use.”
- Standard 4.3, Personnel Practices and Decisions, requires trial courts to use fair employment practices.
- Standard 4.4, Public Education, requires that trial courts inform the community about its programs.
- Standard 4.5, Response to Change, requires trial courts to anticipate new conditions and emergent events and adjust their operations as necessary. “A trial court that moves deliberately in response to emergent issues is a stabilizing force in society and acts consistently with its role of maintaining the rule of law.”
- Standard 5.2, Expeditious, Fair, and Reliable Court Functions, requires trial courts to instill in the public trust and confidence that basic court functions are conducted expeditiously and fairly, and that court decisions have integrity.

The National Center for State Courts (NCSC) stresses leadership and management as two integral functions of court administration. The NCSC publication “Leadership and Management Executive Summary” gives the following description of the importance of these functions to the courts system.

Developing effective leadership and management practices in our court systems is an instrumental process that can positively influence many important issues such as public trust and confidence, court and community collaboration, and timeliness and consistency, which face the courts today. In order to implement effective, scalable, and pertinent changes within the judicial system, strategic planning and team building must also be integrated into the inherent culture of our courts. Additionally, the demand for increased services from courts along with many other widespread changes, both on a local and national level, can be more easily forecasted and implemented when sound leadership, planning, and organizational change management practices are in place.

The NCSC Institute for Court Management has developed several programs designed to educate the judicial community about the development, implementation, and evaluation of successful leadership and management practices. In addition, numerous states offer myriad opportunities for leadership and management training, as indicated below.

#### **2.9.5 Other State Practices**

States such as Arizona (Trial Court Leadership Center), California (Exercising Leadership Capabilities Program), North Dakota (Faculty Development and Group Leadership Seminar Program), and Washington (Trial Court Coordinating Council: Court Management Institute Program) offer court leadership and management training programs to better prepare court staff to provide effective and efficient administration of the courts.

The Delaware Supreme Court, in response to inadequate appropriations, created the state's Court Resources Task Force in 2002 to study the effectiveness of budget and staffing structures within the court system. Recommendations from the Task Force relative to court administration include:

- Reassignment of certain financial and technological functions and associated staff from the trial courts to the state court administrator's office;
- Establishment of an Equal Justice Fund within the Delaware Community Foundation, an existing nonprofit organization, to seek and disburse private contributions to assist in addressing needs within the state judicial system; and
- Centralization of the process of tracking and reporting grants and development of a new relationship and understanding with the General Assembly so that budget and grant funding will coordinate more effectively and efficiently with court system priorities.

The Ohio Court Futures Commission, in its May 2000 report, recommended numerous changes for the state's judicial system. Commission recommendations relative to court administration include:

***Recommendations to Increase Efficiency/Reduce Costs of  
Essential Judicial System Activities***

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- All courts should establish performance and services standards and encourage ongoing evaluation and continuous improvement practices;
- Under guidance of the Supreme Court, all courts should regularly assess their status and implement needed changes to optimize public safety, accessibility, and convenience in court facilities;
- Hiring and administration of court personnel should continue to be the prerogative of local jurisdictions under guidelines developed by the Supreme Court to ensure that court users in all areas of the state benefit from fair and consistent administration of justice;
- The Supreme Court should clarify the appropriate roles and responsibilities of employees and officers of the court and promulgate standards for use by courts;
- Allocation of resources for personnel matters should remain at the local court level;
- Court employee salaries, benefits, and retirement should be sufficient to attract and retain well-qualified individuals;
- Local courts should continue to govern themselves, within an expanded framework of statewide standards adopted by the Supreme Court;
- Statewide standards for court facilities, technology, personnel qualifications, training, operations, and performance should be implemented;
- Virtually every Ohio court should employ a full-time administrator and be guided by a comprehensive management plan;
- The essential functions of state courts should increasingly be funded from state general tax revenues supplemented by cost-based user fees and county and municipal appropriations, based on a relative share of the cost of operating the courts;
- New requirements and standards imposed by the state should be supported by state funding or other available funding sources; and
- State funding should be phased in through an orderly and deliberate process over a period of years.

It should be noted that the structure of the Ohio courts system has not changed since 1912. In the state there are three levels of state courts (Supreme Court, intermediate courts of appeals, and local trial courts, which include common pleas, municipal and

county courts). However, the system is complicated and the commission recommended combining the different local trial courts into a single trial court, as in Florida. As noted above, the commission also recommended a shift in funding to the state.

The New York judicial system employs approximately 15,000 nonjudicial personnel throughout the courts system according to its 2001 "24<sup>th</sup> Annual Report of the Chief Administrator of the Courts." The Chief Judge of the Court of Appeals, as chief judge of the state, appoints a Chief Administrator of the Courts with the advice and consent of the Administrative Board of the Courts. The Administrative Board consists of the chief judge and the presiding justices of the four appellate divisions of the Supreme Court. Responsibility for on-site management of the trial courts and agencies is vested in local administrative judges, who manage court caseloads and are responsible for general administrative functions, including personnel and budget administration. The statewide Office of Management Support provides administrative services required to support all court and auxiliary operations and consists of five divisions: court operations, financial management, human resources, administrative services, and technology.

The Arizona Constitution authorizes an administrative director and staff to assist the Chief Justice with administrative duties at the statewide level. At the local level, only larger Arizona counties have court administrators to assist the presiding judge with caseflow management, records management, financial management and other administrative projects. Typically, court clerks in the state maintain official records and handle administrative duties of the courts.

The Washington Legislature established the statewide Administrative Office of the Courts (AOC) in 1957. It operates under the direction and supervision of the Chief Justice of the Supreme Court. The AOC is organized into four areas: administration, information services division, judicial services division, and management services



division. At the local level, some Superior Courts (the Washington equivalent of Florida's circuit courts) employ court administrators, but their functions vary depending upon the policies of the court served. Generally, the court administrator is responsible for notification of jurors, supervision of court staff, assisting the presiding judge in budget planning for the court, assignment of cases, and implementation of general court policies. However, Washington court clerks also maintain some jury management duties. The state's Courts of Limited Jurisdiction (Washington's equivalent of Florida's county courts) are served by administrative support staff. Under the direction of the presiding judge, the staff is responsible for maintaining the court's fiscal and administrative records.

In 2001, Washington released its "Coordinating Judicial Resources for the New Millennium" report outlining recommendations for improving the state's judicial system.

Among the recommendations relating to court administration:

- All trial courts in each jurisdiction should develop a comprehensive system of cooperation, coordination, and collaboration. By resolution, a trial court coordination council should be created in each jurisdiction, composed of trial court judges, clerks, court administrators, lawyers, citizens, and local officials, to work toward maximum utilization of judicial and other court resources by developing then implementing a comprehensive trial court coordination plan. An important goal of the council should be to minimize duplication of services and maximize court resources. This recommendation additionally delineates types and examples of inter-agency cooperative approaches to court and justice system management.
- The state's Board for Judicial Administration, working in collaboration with the other branches of government, both state and local, and with trial court judges, clerks, court administrators, lawyers, citizens, and other state and local officials, should initiate a request to the Legislature to establish a funding mechanism to support trial court coordination activities. Funds should be administered through the statewide AOC to cover expenses associated with action by the trial courts in a jurisdiction to coordinate judicial and other court resources and services.

- The Board of Judicial Administration, working in collaboration with the other branches of state and local government, should seek funds from the Legislature to be placed in an account administered by the statewide AOC and the Board of Judicial Administration. This fund should be used to initiate innovative court administration programs, inventory potential administrative innovations, and provide staff and consultant expertise for facilitating trial court collaboration.

The costs of court operations in four of the 10 districts in the Minnesota State Courts System were transferred from local to state funding on July 1, 2000. By 2005, the state will fund court operations in all 87 counties. The organizational structure of the state's court system is similar to Florida's, divided into trial courts, appeals courts, and a Supreme Court. In the state's 2001 "Strategies and Priorities: Minnesota's Judicial Branch Focus on the Future" publication, action steps to achieve the overarching goals of the judicial branch are discussed. Goals related to court administration include:

- Continuing a major judicial branch transformation, as the court system transitions from a largely county-focused and funded trial court system to our increasingly unified, state-funded branch of state government;
- Assessing court employee compensation to ensure that the court system attracts and retains competent employees in the midst of a tight labor market; and
- Providing critically needed equipment, training, and other expenses to meet the public's demand for judicial services, with an eye on the court system's strategic plan and an end goal of remaining poised to meet the system's future challenges.

#### **2.9.6 Recommendations**

##### **RECOMMENDATION 2.9-1:**

##### **Continue to centralize overall responsibility for court administration planning and budgeting in the Trial Courts Budget Commission**

While each circuit should develop their own court administration plans and budgets, the Trial Court Budget Commission (TCBC) should continue to have responsibility for consolidating, equalizing and refining the circuit plans and requests. The scope of this planning and budgeting process will expand, however, to include court positions and expenditures currently funded by the counties.

**RECOMMENDATION 2.9-2:**

**Centralize responsibility for payroll, purchasing, accounting and risk management in the Office of the State Courts Administrator or a comparable entity within the judicial branch. Consider contracting with counties for payroll, purchasing and accounting assistance.**

One of OSCA's responsibilities is to provide centralized support to court administration in the 20 circuits. This includes the administrative functions of payroll, purchasing, accounting and risk management when state personnel or funds are involved. This responsibility could expand substantially upon implementation of Revision 7, however, since the counties now fund a significant number of court employees and most operating and contractual purchases.

The following options were considered when analyzing alternatives for the performance of these functions:

- Decentralize the functions by delegating responsibility to court administration in the 20 circuits;
- Combine the functions with similar functions being performed by the Justice Administrative Commission (JAC) for the state attorney and public defender offices and centralize all responsibility in OSCA, JAC, or a new entity within the judicial branch;
- Outsource the functions by contracting with a private firm; and
- Centralize the functions in OSCA or a comparable entity within the judicial branch.

The first option of decentralization was rejected primarily because of the difficulty in optimizing efficiency and in effectively managing and controlling the functions in 20 diverse circuits.

Centralizing and combining the functions currently performed by OSCA and JAC was considered but we concluded that the potential operating efficiencies would not justify the effort needed to reconcile differences in current operating practices. We suggest this option be revisited after implementation of Revision 7 and after all of the much more significant issues have been addressed.

The outsourcing option was not considered to be feasible because our experience indicates that major firms in the marketplace would not be interested in tailoring their services for an operation of this size. However, the contract to outsource many human resources functions that is currently being implemented in Florida's executive branch agencies should be considered once the cost savings, the level of service, and the effectiveness have been evaluated.

We recommend the fourth option that the support functions involving state personnel or funds continue to be centralized and that they be performed either by OSCA or a comparable entity within the judicial branch. National and state data identified by MGT

points toward the implementation of statewide standards with local jurisdictions being accountable to a statewide body as a preferred model. With the potential increase in state responsibilities upon implementation of Revision 7, however, more resources may be needed to provide all of these services directly. Therefore, consideration should be given to delegating performance of some or all of these activities to the counties, under centralized direction and control. For example, county court personnel could continue to be county employees with the state reimbursing salary and benefit costs. Purchasing and accounting activities could continue to be performed by the counties and/or clerk of court, within standardized guidelines and procedures, with the state reimbursing their processing costs.

**RECOMMENDATION 2.9-3:**

**Continue to assign responsibility for human resources, training and grants management to the circuits so they are able to provide direct employee access and sensitivity to local requirements. Standardized policy and procedural requirements should be developed to guide local activities.**

The options considered for these functions were essentially the same as those considered for payroll, purchasing, accounting and risk management. However, we recommend that these functions be decentralized and assigned to court administration in each of the 20 circuits. Human resources, training, and grants management are more variable, more tailored to specific situations, and less paperwork processing activities than the other functions. There is a need for more direct accessibility to the circuit employees and for much more sensitivity to local requirements and conditions. The need to tailor these services to specific situations means economies of scale would not yield significant benefits.

OSCA should establish policy and procedural guidelines to help ensure that the circuits provide the services effectively, efficiently and in a consistent manner. Small and medium size circuits may not have enough work to justify assignment of a full-time position to each service. They should either assign them to one or more people as part-time responsibilities or should consider contracting with the counties. State-level jurisdiction and guidance with local responsibility appears to be a widely accepted model across the other state courts systems MGT identified and in directives found at the national level.

**RECOMMENDATION 2.9-4:**

**Establish workload-based staffing standards for each court administration activity performed in the circuits. The studies should include definitions of all major administrative activities performed by each type of position within court administration. The standards should be developed using a highly structured and controlled Delphi approach, similar to methodology used for the judicial weighted caseload study.**

Not only is there substantial variation in court administration practices and a lack of activity definitions, but the costs have also not been recorded separately. The UCA

code for “court administration” also includes “case management” and, possibly, other unrelated costs. Therefore, historical data is not available to help establish definitive budget and staffing requirements.

The options considered for developing the data necessary to develop reasonable budget and staffing requirements included:

- Immediately initiate a data collection effort to record historical time and cost data that could better quantify current costs;
- Request that the Commission on Trial Court Performance & Accountability and OSCA staff develop estimates of budget and staffing requirements; and
- Conduct an objective, engineered study to develop workload-based staffing standards.

We recommend the third option as the preferred means for developing reliable standards for this very important, high-cost element. The study should include establishment of clear definitions of court administration responsibilities and work activities. The most cost-effective method for establishing standards is a Delphi approach, similar to the judicial weighted caseload study but in a more highly structured and controlled setting. The standards should then be tested and validated by applying sample workload data. Funding formulas should then be developed to calculate the number and cost not only of first-line personnel performing court administration activities but also their supervisors.

The second option could be viable if the committee and OSCA believe they have sufficient knowledge of court administration processes, how they should be performed, and how much time each process *should* take. These estimates may not be acceptable to the legislature, however, since there could be concerns regarding objectivity.

We recommend the third option as the preferred means for developing reliable standards for this very important, high-cost element. The study should logically be part of the comprehensive study discussed in Recommendation 2.9-1 since a clear understanding of responsibilities and work activity definitions is needed to establish the standards. The most cost-effective method for establishing standards is a Delphi approach, similar to the judicial weighted caseload study but in a more highly structured and controlled setting. The standards should then be tested and validated by applying sample workload data. Funding formulas should then be developed to calculate the number and cost not only of first-line personnel performing court administration activities but also their supervisors.

Implementation of this recommendation will necessitate:

- joint participation by the Legislature and the courts in the project to encourage mutual acceptance of the results;
- establishment of plans and specifications for the study;

- determination as to whether an outside expert is needed to conduct the project; and
- appropriation of funding for the project.

**RECOMMENDATION 2.9-5:**

**Establish monthly court administration budgets for each circuit and monitor expenditures and workload against those budgets. OSCA should prepare and issue monthly, statewide, comparative reports for all circuits and distribute to each circuit and the Legislature.**

The annual court budget for each circuit should include court administration costs as a separate budget item. As described above, establishing the initial budgets will be difficult without reliable historical data. However, OSCA did collect court administration costs through their survey and that data should provide some insight. Court management will need to use this information as well as their experience and judgment to develop the FY 2005 budget.

A system to collect actual court management expenditures should be established as soon as possible and the results monitored through monthly reports. The costs initially should be recorded in broad categories, such as training and legal, until the recommended activity definition and standards study is completed. At that point, the budgeting and reporting systems should incorporate the study results.

Actual expenditures during the year should be monitored through monthly reports that also include key court administration volume data. These actual results should be compared to the monthly and year-to-date budgets. The court in each circuit should provide a copy of their monthly report to OSCA, who will prepare a statewide comparative report encompassing all circuits. Copies of the report should be distributed to each circuit as well as the legislature.

**2.9.7 Potential Cost Reductions**

The counties currently fund many court administration costs. As noted previously, however, the court administration UCA code also includes case management, so a reliable cost cannot be determined. A very rough estimate for FY 2000 is about \$30 million.

We estimate these costs could be reduced by 10 to 15 percent through implementation of the five recommendations just described. This estimate is based on our experience with similar studies involving independent entities that perform the same

basic function without centralized management and control and with little standardization of policies and procedures. Furthermore, our experience in developing and implementing scores of workload-based staffing and performance standards programs for a wide range of state and local government agencies is that the results are typically productivity improvements of 20 to 30 percent. The improvements may be realized through direct cost reductions or cost-avoidance savings.

## **2.10 Judges and Related Support**

### **2.10.1 Definition/Description**

For these Phase 2 analyses, three elements have been grouped together into one category – judges, legal support, and judicial support. In Phase 1, each of these were addressed separately. Trial court judges, either elected or appointed, are authorized in Articles I and V of the Florida Constitution and in state law. When a judgeship is established, an appropriation is also requested for a judicial assistant, and for one staff attorney (law clerk) for every three circuit judgeships. The courts are also provided legal resource materials and general counsel services. However, in most circuits, general counsel services are shared with the county.

The counties have no reported expenditures for judges, judicial assistants, or staff attorneys funded through the model outlined above. These positions are funded by the state. The counties, however, do fund legal support for judges and the court, including additional staff attorneys, legal research materials, etc. These expenditures for FY2000 were reported using UCA codes to be approximately \$530,000, but the courts reported expenditures of nearly \$2 million for this function in FY2000.

### **2.10.2 Program Delivery Variations**

The use of senior judges differs from circuit to circuit, based on several factors, including:

- Caseload;
- Sitting judges unable to serve due to illness or death;
- Financial constraints;
- Senior judge availability; and
- Chief judge's assignment of senior judges.

The use of staff attorneys across circuits is less variable, since these positions are included in the judicial funding formula. However, nine circuits supplement the state-funded staff, either through county-funded staff attorneys or through county-funded general counsel and related staff. The latter model is found in only three circuits –Sixth, 11<sup>th</sup>, and 13<sup>th</sup>. OSCA reports that most circuits are provided general counsel services in whole or in part by county legal staff. The Commission on Trial Court Performance and Accountability also found that in many circuits staff attorneys perform some of the functions normally associated with general counsel support. Many counties also pay for clerical support for the circuit's legal staff since they are not included in the judicial funding formula. Exhibit 2-22 depicts legal support costs for FY 2000 by circuit and county.

### **2.10.3 Stakeholder Entity Input**

In June 2001, the Supreme Court of Florida established the Committee on Appointment and Assignment of Senior Judges to address a variety of policy and procedural issues. The committee issued a report in February 2002 asserting that senior judges currently:

- Provide the citizens of Florida with the equivalent of more than 35 full-time judges;
- Improve the service that Florida courts are able to provide citizens;



- Provide better and speedier access to courts;
- Shorten trial calendars and reduce backlogs; and
- Help courts avoid interruption when active judges are unable to serve.

Recommendations made by the committee include:

- A significant increase in senior judge compensation in order to encourage and recruit the services of qualified retired judges;
- The eligibility of potential senior judges should be determined through a process that includes:
  - Screening to ensure compliance with continuing education requirements;
  - Inquiries to chief and administrative judges with whom the candidate has worked;
  - Inquiry to the Judicial Qualifications Commission to determine whether the retired judge is the subject of any pending investigations; and
  - Consideration of input about the retired judge's work from attorneys who appear before the court;
- A judge or justice who has been defeated in an election or retention vote in their last judicial position should not be eligible to serve as a senior judge;
- A judge who is otherwise qualified to serve as a senior judge, and who applies for assignment as a senior judge within a year of retirement, should be eligible for assignment without review of attorney input;
- Continuing service as a senior judge should require periodic review, based on education, employment, and Judicial Qualifications Commission screening, and on the recommendation of a review board after consideration of input from attorneys who appear before the court;
- The review of senior judges should be conducted by five review boards, with one board created to serve each appellate district. Review boards would make a recommendation to the chief justice whether a candidate is eligible or not eligible for assignment;
- Senior judges who have been determined to be eligible for assignment but have not reached the constitutionally required age of

retirement should be subject to review every three years. Senior judges who have reached the constitutionally required age of retirement should be subject to annual review;

- Senior judges should not be prohibited from serving in a superior court than that in which they were elected or appointed;
- While there should not be a per se prohibition against the use of senior judges in complex cases, guidelines regarding the assignment of senior judges should provide that, absent an agreement by the litigants, chief judges are encouraged not to assign senior judges to preside over complex cases;
- There should not be a limit on the number of days that a senior judge serves within a calendar year;
- Standard assignment orders to duty that allow for service statewide as a senior judge should be created for issuance by the chief justice;
- OSCA should create and maintain an intranet Web site to support the efficient and effective assignment and use of senior judges; and
- A permanent workgroup should be created under OSCA and the Clerk of the Supreme Court to address ongoing operational matters and procedures and to support the chief justice in implementing and maintaining the proposed system for the assignment and support of senior judges.

**EXHIBIT 2-22  
LEGAL SUPPORT COSTS BY CIRCUIT AND COUNTY  
AND PER CAPITA, FY2000**

| Circuit & Counties   |            | Legal<br>Support<br>Costs | Total<br>Number<br>of Judges | Costs per<br>Judge |
|----------------------|------------|---------------------------|------------------------------|--------------------|
| <b>1</b>             | Escambia   | \$7,917                   |                              |                    |
|                      | Okaloosa   | \$0                       |                              |                    |
|                      | Santa Rosa | \$18,884                  |                              |                    |
|                      | Walton     | \$0                       |                              |                    |
| <b>Circuit Total</b> |            | <b>\$26,801</b>           | <b>32</b>                    | <b>\$837.53</b>    |
| <b>2</b>             | Franklin   | \$0                       |                              |                    |
|                      | Gadsden    | \$0                       |                              |                    |
|                      | Jefferson  | \$0                       |                              |                    |
|                      | Leon       | \$0                       |                              |                    |
|                      | Liberty    | \$0                       |                              |                    |
|                      | Wakulla    | \$0                       |                              |                    |
| <b>Circuit Total</b> |            | <b>\$0</b>                | <b>25</b>                    | <b>\$0.00</b>      |
| <b>3</b>             | Columbia   | \$0                       |                              |                    |
|                      | Dixie      | \$0                       |                              |                    |
|                      | Hamilton   | \$0                       |                              |                    |
|                      | Lafayette  | \$0                       |                              |                    |
|                      | Madison    | \$0                       |                              |                    |
|                      | Suwannee   | \$0                       |                              |                    |
|                      | Taylor     | \$0                       |                              |                    |
| <b>Circuit Total</b> |            | <b>\$0</b>                | <b>13</b>                    | <b>\$0.00</b>      |
| <b>4</b>             | Clay       | \$0                       |                              |                    |
|                      | Duval      | \$48,563                  |                              |                    |
|                      | Nassau     | \$0                       |                              |                    |
| <b>Circuit Total</b> |            | <b>\$48,563</b>           | <b>49</b>                    | <b>\$991.08</b>    |
| <b>5</b>             | Citrus     | \$0                       |                              |                    |
|                      | Hernando   | \$0                       |                              |                    |
|                      | Lake       | \$0                       |                              |                    |
|                      | Marion     | \$8,910                   |                              |                    |
|                      | Sumter     | \$0                       |                              |                    |
| <b>Circuit Total</b> |            | <b>\$8,910</b>            | <b>33</b>                    | <b>\$270.00</b>    |
| <b>6</b>             | Pasco      | \$22,517                  |                              |                    |
|                      | Pinellas   | \$133,412                 |                              |                    |
| <b>Circuit Total</b> |            | <b>\$164,839</b>          | <b>59</b>                    | <b>\$2,793.88</b>  |
| <b>7</b>             | Flagler    | \$5,098                   |                              |                    |
|                      | Putnam     | \$6,386                   |                              |                    |
|                      | St. Johns  | \$4,053                   |                              |                    |
|                      | Volusia    | \$9,240                   |                              |                    |
| <b>Circuit Total</b> |            | <b>\$24,777</b>           | <b>38</b>                    | <b>\$652.03</b>    |

**EXHIBIT 2-22 (Continued)  
LEGAL SUPPORT COSTS BY CIRCUIT AND COUNTY AND  
PER CAPITA, FY2000**

| <b>Circuit &amp; Counties</b> | <b>Legal<br/>Support<br/>Costs</b> | <b>Total<br/>Number<br/>of Judges</b> | <b>Costs per<br/>Judge</b> |
|-------------------------------|------------------------------------|---------------------------------------|----------------------------|
| <b>8</b> Alachua              | \$16,731                           |                                       |                            |
| Baker                         | \$0                                |                                       |                            |
| Bradford                      | \$0                                |                                       |                            |
| Gilchrist                     | \$0                                |                                       |                            |
| Levy                          | \$0                                |                                       |                            |
| Union                         | \$0                                |                                       |                            |
| <b>Circuit Total</b>          | <b>\$16,731</b>                    | <b>22</b>                             | <b>\$760.50</b>            |
| <b>9</b> Orange               | \$124,456                          |                                       |                            |
| Osceola                       | \$577                              |                                       |                            |
| <b>Circuit Total</b>          | <b>\$125,033</b>                   | <b>56</b>                             | <b>\$2,232.73</b>          |
| <b>10</b> Hardee              | \$0                                |                                       |                            |
| Highlands                     | \$0                                |                                       |                            |
| Polk                          | \$29,963                           |                                       |                            |
| <b>Circuit Total</b>          | <b>\$29,963</b>                    | <b>33</b>                             | <b>\$907.97</b>            |
| <b>11</b> Miami-Dade          | \$1,390                            |                                       |                            |
| <b>Circuit Total</b>          | <b>\$1,390</b>                     | <b>115</b>                            | <b>\$12.09</b>             |
| <b>12</b> DeSoto              | \$0                                |                                       |                            |
| Manatee                       | \$1,556                            |                                       |                            |
| Sarasota                      | \$17,096                           |                                       |                            |
| <b>Circuit Total</b>          | <b>\$18,652</b>                    | <b>28</b>                             | <b>\$666.14</b>            |
| <b>13</b> Hillsborough        | \$582,676                          |                                       |                            |
| <b>Circuit Total</b>          | <b>\$582,676</b>                   | <b>52</b>                             | <b>\$11,205.31</b>         |
| <b>14</b> Bay                 | \$28,227                           |                                       |                            |
| Calhoun                       | \$0                                |                                       |                            |
| Gulf                          | \$0                                |                                       |                            |
| Holmes                        | \$0                                |                                       |                            |
| Jackson                       | \$911                              |                                       |                            |
| Washington                    | \$0                                |                                       |                            |
| <b>Circuit Total</b>          | <b>\$29,138</b>                    | <b>17</b>                             | <b>\$1,714.00</b>          |
| <b>15</b> Palm Beach          | \$136,866                          |                                       |                            |
| <b>Circuit Total</b>          | <b>\$136,866</b>                   | <b>51</b>                             | <b>\$2,683.65</b>          |
| <b>16</b> Monroe              | \$26,406                           |                                       |                            |
| <b>Circuit Total</b>          | <b>\$26,406</b>                    | <b>8</b>                              | <b>\$3,300.75</b>          |
| <b>17</b> Broward             | \$261,680                          |                                       |                            |
| <b>Circuit Total</b>          | <b>\$261,680</b>                   | <b>79</b>                             | <b>\$3,312.41</b>          |
| <b>18</b> Brevard             | \$84,582                           |                                       |                            |
| Seminole                      | \$127,422                          |                                       |                            |
| <b>Circuit Total</b>          | <b>\$212,004</b>                   | <b>37</b>                             | <b>\$5,729.84</b>          |

**EXHIBIT 2-22 (Continued)  
LEGAL SUPPORT COSTS BY CIRCUIT AND COUNTY AND  
PER CAPITA, FY2000**

| <b>Circuit &amp; Counties</b> | <b>Legal<br/>Support<br/>Costs</b> | <b>Total<br/>Number<br/>of Judges</b> | <b>Costs per<br/>Judge</b> |
|-------------------------------|------------------------------------|---------------------------------------|----------------------------|
| <b>19</b> Indian River        | \$0                                |                                       |                            |
| Martin                        | \$0                                |                                       |                            |
| Okeechobee                    | \$0                                |                                       |                            |
| St. Lucie                     | \$28,670                           |                                       |                            |
| <b>Circuit Total</b>          | <b>\$28,670</b>                    | <b>23</b>                             | <b>\$1,246.52</b>          |
| <b>20</b> Charlotte           | \$2,415                            |                                       |                            |
| Collier                       | \$9,882                            |                                       |                            |
| Glades                        | \$0                                |                                       |                            |
| Hendry                        | \$1,164                            |                                       |                            |
| Lee                           | \$173,982                          |                                       |                            |
| <b>Circuit Total</b>          | <b>\$187,443</b>                   | <b>37</b>                             | <b>\$5,066.03</b>          |
| <b>Grand Total</b>            | <b>\$1,930,542</b>                 | <b>807</b>                            | <b>\$2,392.25</b>          |

Source: FY 2000 Annual Financial Reports, Office of State Courts Administrator, 2001.

OSCA, working with the Commission on Trial Court Performance and Accountability, has advocated that the state fund one general counsel position for each circuit, one administrative assistant position for the general counsel in each medium and large circuit, and one senior secretary for every five staff attorneys. This would necessitate the addition of 33 total positions in 18 circuits.

**2.10.4 National Best Practices**

While nearly every state provides for some type of retired judge and justice service, no information was identified regarding national best practices. Similarly, national information regarding staff attorneys does not appear to exist.

### **2.10.5 Other State Practices**

A 1999 report by the New York Task Force on Mandatory Retirement of Judges made several recommendations relating to senior or retired judges, including:

- the establishment of a “senior judge” system for eligible judges;
- provide that all state-paid judges reaching the mandatory retirement age of 70 be eligible for certification to stay in judicial service for up to four additional two-year periods, that is, until age 78;
- the Chief Administrative Judge should promulgate precise rules delineating the procedures and criteria governing the certification of judges, including the creation of a five-member evaluatory panel in each judicial district that would be responsible for assessing the need for a certificated judge in that district, the mental and physical capacities of the applicant, and the applicant’s judicial performance;
- allow judges to apply for “senior status” at age 62 with ten years of experience, 63 with nine years, and so on up to the mandatory retirement age of 70, at which time all judges are eligible for senior status; and
- the Chief Administrative Judge should promulgate rules delineating the procedures and criteria governing the designation of senior judges, including the creation of an evaluatory panel in each judicial district that would be responsible for evaluating the need for a senior judge in that district and the capability of the applicant.

The report also noted that 27 jurisdictions (including state and federal judiciaries) compel retirement at age 72 and above or have no mandatory retirement age at all. Of the 38 states that do have mandatory retirement laws, 24, including Florida, compel retirement at age 70. However, 16 of these states make some form of exception to compulsory retirement.

Uniform Rules for the Georgia Superior Courts state that the chief judge of any superior court may make a written request for assistance to the chief judge of any other superior court, a senior judge of the superior court, a retired judge, or a judge emeritus of any court, if

- a judge of the requesting court is disqualified for any cause from presiding in any matter pending before the court;

- a judge of the requesting court is unable to preside because of disabling illness, or absence; or
- a majority of the judges of the requesting court determines that the business of the court requires the temporary assistance of an additional judge or additional judges.

The rules also provide that an active judge may call upon a senior judge to serve in an emergency or when the volume of cases or other unusual circumstances cause such service to be necessary in order to provide for efficient disposition of cases. Additionally, except in cases of emergency, the requesting judge must certify the reason such service is required, “which shall include an order of appointment giving the scope and tenure of such requested service as in the discretion of the requesting judge is necessary to meet the need.” The rules also provide for the continuing service of “defeated senior judges,” or those judges who retired from active judicial service after failing to be reelected at a primary or election. In order to serve as senior judges, these individuals must be approved for service by the Supreme Court of Georgia.

Iowa Rules of Judicial Administration provide that the Iowa Supreme Court rule on an application for senior status, which includes the consideration of “the applicant’s demonstrated understanding that a senior judge’s assignment will be determined by the chief judge, with reasonable accommodation for the senior judge’s preference.”

On December 23, 2002, the Supreme Court of Missouri issued an order adopting subdivision 11.09 “Senior Judge Limitations” to the state’s court rules. The new rule is designed to prevent conflicts of interest related to a senior judge’s engagement in private law practice and provides that:

- a senior judge shall not sit in any case in which a party, lawyer, or law firm in the case has directly or indirectly retained the senior judge for compensation within the preceding six months;
- a senior judge shall not perform any task for a party, lawyer, or law firm that has appeared in a case before the senior judge in the

preceding six months unless the senior judge does so without compensation; and

- within ten days of assignment, a senior judge shall mail counsel of record in every case to which the senior judge is assigned a list of the parties, lawyers, and law firms that have retained the senior judge for compensation within the preceding 36 months.

The Missouri Constitution more broadly provides that “any retired judge, associate circuit judge or commissioner, with his consent, may be assigned by the supreme court as a senior judge to any court in this state or as a special commissioner. When serving as a senior judge he shall have the same powers as an active judge.”

In Alaska, Administrative Rule 23 provides that the chief justice or another justice designated by the chief justice “may by special assignment appoint a retired justice of the supreme court or a retired judge of the court of appeals, the superior court, or the district court to sit pro tempore as a senior justice or judge in any court in the state where such assignment is deemed necessary for the efficient administration of justice.” The rule further states that pro tempore appointments may be made for one or more cases or for a specified period of time up to two years, with exceptions made to complete a trial or appeal in progress, but appointments may be renewed. Subsections of the rule set out the compensation for pro tempore judges (\$225 per day), with stipulation that the annual compensation for pro tempore service may not exceed the difference between the retired judge’s annual retirement pay and the current annual base salary of a judge of the court from which the judge retired.

Each presiding judge in Texas must maintain a list of eligible retired and former judges and divide the list into area specialties of criminal, civil, or domestic relations cases. Retired judges may only be assigned to a case in the judge’s area of specialty, but a judge may qualify for assignment in more than one area. In order to qualify for potential appointment, a retired judge must:



- have served as a judge for at least 48 months in a district, statutory probate, statutory county, or appellate court;
- have developed substantial experience in the judge's area of specialty;
- not have been removed from office;
- certify under oath to the presiding judge that the judge did not resign from office in response to or during formal investigation proceedings by the State Commission on Judicial Conduct;
- annually demonstrate that the judge has completed in the past calendar year the educational requirements for active district, statutory probate, and statutory county court judges; and
- certify to the presiding judge a willingness not to appear and plead as an attorney in any court in the state for a period of two years.

New Jersey statutes provide that, subject to rules of the Supreme Court, “any judge of the Superior Court, juvenile and domestic relations court, county district court or tax court who has retired on pension or retirement allowance may, with his consent, be recalled by the Supreme Court for temporary service within the judicial system other than the Supreme Court.” The rule further states that a recalled judge retains all the powers of a judge of the court to which he is assigned and should be paid a per diem allowance that, together with pension or retirement allowance, shall not exceed the current salary of a judge of the court from which he retired.

#### **2.10.6 Recommendations**

##### **RECOMMENDATION 2.10-1:**

**Provide legal services for each circuit through staff attorneys or through a contract with county legal staff. The general counsel staffs provided in three circuits by the counties should not be funded by the state.**

In most circuits, court administration staff currently performs legal services in the areas of ADA compliance, contracts, employment matters, etc. For more technical legal issues, staff attorneys and/or county legal staff are used. However, three of the six largest circuits (the Sixth, 11<sup>th</sup> and 13<sup>th</sup>) have general counsel staffs that are funded by the counties but are part of their court administration organization.

Upon implementation of Revision 7, most counties will probably not continue to provide general counsel staff or county legal staff assistance unless the costs are reimbursed by the state. We recommend OSCA help define essential legal services and determine which can be provided effectively by court administration and which must be provided by attorneys. Each circuit should then quantify the volume of each significant service and determine how it should be provided, e.g., by court administration, circuit staff attorneys, or county legal staff. If county legal staff is the most cost-effective alternative, contractual arrangements should be established.

**RECOMMENDATION 2.10-2:**

**Establish rules and/or guidelines regarding the types of cases senior judges should adjudicate.**

The purpose of the rules/guidelines is to enumerate the types of assignments that facilitate the most productive and effective use of senior judges. The guidelines would indicate whether assignments should generally be limited to only certain types of cases based on the individual's experience (e.g., criminal, family, medical, etc.), cases that are longer and more complex, cases that are shorter and simpler, or cases that cover the full range and mix. While each specific assignment must consider the qualifications and experience of the individual judge, the rules/guidelines can help encourage the most effective and efficient use of these valuable resources. Examples of rules promulgated by selected states identified by MGT may offer some direction and perspective in developing guidelines in Florida.

**2.10.7 Potential Cost Reductions**

The potential cost reduction of this recommendation is difficult to quantify but the cost impact is probably negligible relative to total judicial costs.

**2.11 State Attorneys and Public Defenders**

**2.11.1 Definition Description**

The Florida Constitution provides for the election of a state attorney (SA) and a public defender (PD) in each judicial circuit. State attorneys and public defenders are authorized to appoint assistant state attorneys and assistant public defenders, respectively, as may be authorized by law. These positions are normally funded by the state.

The SA and PD offices both require the performance of administrative services to carry out their functions at the circuit level. These services include personnel and payroll reporting, purchasing, travel, clerical support, etc. However, the SA and PD offices rely on the Justice Administrative Commission (JAC) to provide a single point of contact from which the Legislature and state agencies can obtain financial, accounting, and personnel activity information. The governing board of the JAC consists of two state attorneys appointed by the Florida Prosecuting Attorneys Association (FPAA) and two public defenders, appointed by the Florida Public Defenders Association (FPDA).

#### **2.11.2 Program Delivery Variations**

State attorneys and public defenders in Florida are governed generally by Chapter 27, F.S. Part II, “State Attorneys,” and Part III, “Public Defenders.” These statutes specify the duties, reporting responsibilities, and general administrative responsibilities of state attorneys and public defenders. The administrative organization of each office is at the discretion of the elected state attorney or public defender.

The JAC was created by Chapter 43, F.S. to provide budgeting, accounting, and personnel support to the 20 state attorneys, 20 public defenders, and three capital collateral regional counsel offices. However, two of the capital collateral regional counsels and the 11<sup>th</sup> circuit state attorney (Miami-Dade) perform their own voucher payment processing.

State attorney and public defender offices generally share the same framework of positions from circuit to circuit. However, the number of positions in each circuit differs greatly. For instance, the Third Circuit State Attorney’s Office has 64.5 FTE positions in its office, including 30 assistant state attorneys, four investigators, four victim/witness counselors, and multiple administrative and computer support staff. The 11<sup>th</sup> Circuit State Attorney’s Office has 1,200 positions with the same position titles, as well as

driver, process server, facilities management, and internal auditor, among others. In the Third Circuit Public Defender's Office, 18 assistant public defenders, three investigators, and eight administrative employees support the Public Defender. In the 11<sup>th</sup> Circuit, 445 employees have similar duties, with added positions for library services, human resources, automation training, facilities management, and budget and finance. Exhibit 2-23 depicts state attorney and public defender administration county expenditures for FY 2000 by circuit, by county, and per capita. Some state attorneys have developed innovative plans to handle their caseload without hiring additional assistant state attorneys. For instance, in the Eighth Circuit, which is home to several prisons and tens of thousands of inmates, the State Attorney has established an agreement with the Department of Corrections to allow the DOC to handle minor prison offenses administratively.

### **2.11.3 Stakeholder Entity Input**

In January 1995, the Florida Public Defender Association contracted with the Spangenberg Group to conduct a comprehensive review of the public defender system. The result of this review, "A Study of the Florida Public Defender System: A Blueprint for Action as it Enters the 21<sup>st</sup> Century," was published in April 1996. The report provides a comprehensive overview of the system and sets out several recommendations for improving the public defender function. In particular, it is noted that "among the 20 public defender circuits, there is a lack of uniformity regarding standards for performance, supervision, and many other areas." Further, "the 20 circuits are essentially separate as far as management and policy are concerned (except for a common pay plan) due to the nature of the elected official and the disparity in funding.

**EXHIBIT 2-23  
COUNTY-PAID PUBLIC DEFENDER AND STATE ATTORNEY ADMINISTRATION  
COSTS BY CIRCUIT AND COUNTY AND PER CAPITA, FY2000**

| <b>Circuit &amp;<br/>Counties</b> | <b>Public<br/>Defender<br/>Admin. Costs</b> | <b>State<br/>Attorney<br/>Admin. Costs</b> | <b>Population</b> | <b>Public<br/>Defender<br/>Costs Per<br/>Capita</b> | <b>State<br/>Attorney<br/>Costs Per<br/>Capita</b> |
|-----------------------------------|---|--|-------------------|---|--|
| <b>1</b> Escambia                 | \$578,785                                   | \$628,321                                  | 294,410           | \$1.97  | \$2.13   |
| Okaloosa                          | \$118,628                                   | \$214,528                                  | 170,498           | \$0.70  | \$1.26   |
| Santa Rosa                        | \$313,455                                   | \$204,645                                  | 117,743           | \$2.66  | \$1.74   |
| Walton                            | \$58,624                                    | \$86,214                                   | 40,601            | \$1.44  | \$2.12   |
| <b>Circuit Total</b>              | <b>\$1,069,492</b>                          | <b>\$1,133,708</b>                         | <b>623,252</b>    | <b>\$1.72</b>                                       | <b>\$1.82</b>                                      |
| <b>2</b> Franklin                 | \$4,935                                     | \$0  | 11,057            | \$0.45  | \$0.00   |
| Gadsden                           | \$316,465                                   | \$0  | 45,087            | \$7.02  | \$0.00   |
| Jefferson                         | \$18,611                                    | \$11,731                                   | 12,902            | \$1.44  | \$0.91   |
| Leon                              | \$304,255                                   | \$175,060                                  | 239,452           | \$1.27  | \$0.73   |
| Liberty                           | \$0   | \$3,064                                    | 7,021             | \$0.00  | \$0.44   |
| Wakulla                           | \$0   | \$36,716                                   | 22,863            | \$0.00  | \$1.61   |
| <b>Circuit Total</b>              | <b>\$644,266</b>                            | <b>\$226,571</b>                           | <b>338,382</b>    | <b>\$1.90</b>                                       | <b>\$0.67</b>                                      |
| <b>3</b> Columbia                 | \$33,989                                    | \$65,128                                   | 56,513            | \$0.60  | \$1.15   |
| Dixie                             | \$8,440                                     | \$10,993                                   | 13,827            | \$0.61  | \$0.80   |
| Hamilton                          | \$8,721                                     | \$14,200                                   | 13,327            | \$0.65  | \$1.07   |
| Lafayette                         | \$4,443                                     | \$7,236                                    | 7,022             | \$0.63  | \$1.03   |
| Madison                           | \$0   | \$21,516                                   | 18,733            | \$0.00  | \$1.15   |
| Suwannee                          | \$0   | \$34,788                                   | 34,844            | \$0.00  | \$1.00   |
| Taylor                            | \$7,880                                     | \$11,460                                   | 19,256            | \$0.41  | \$0.60   |
| <b>Circuit Total</b>              | <b>\$63,473</b>                             | <b>\$165,321</b>                           | <b>163,522</b>    | <b>\$0.39</b>                                       | <b>\$1.01</b>                                      |
| <b>4</b> Clay                     | \$0   | \$0  | 140,814           | \$0.00  | \$0.00   |
| Duval                             | \$0   | \$1,857,779                                | 778,879           | \$0.00  | \$2.39   |
| Nassau                            | \$0   | \$82,996                                   | 57,663            | \$0.00  | \$1.44   |
| <b>Circuit Total</b>              | <b>\$0</b>                                  | <b>\$1,940,775</b>                         | <b>977,356</b>    | <b>\$0.00</b>                                       | <b>\$1.99</b>                                      |
| <b>5</b> Citrus                   | \$63,958                                    | \$26,427                                   | 118,085           | \$0.54  | \$0.22   |
| Hernando                          | \$31,004                                    | \$53,338                                   | 130,802           | \$0.24  | \$0.41   |
| Lake                              | \$176,720                                   | \$61,013                                   | 210,528           | \$0.84  | \$0.29   |
| Marion                            | \$188,932                                   | \$215,201                                  | 258,916           | \$0.73  | \$0.83   |
| Sumter                            | \$0   | \$26,487                                   | 53,345            | \$0.00  | \$0.50   |
| <b>Circuit Total</b>              | <b>\$460,614</b>                            | <b>\$382,466</b>                           | <b>771,676</b>    | <b>\$0.60</b>                                       | <b>\$0.50</b>                                      |
| <b>6</b> Pasco                    | \$48,187                                    | \$61,100                                   | 344,765           | \$0.14  | \$0.18   |
| Pinellas                          | \$166,515                                   | \$282,211                                  | 921,482           | \$0.18  | \$0.31   |
| <b>Circuit Total</b>              | <b>\$214,702</b>                            | <b>\$343,311</b>                           | <b>1,266,247</b>  | <b>\$0.17</b>                                       | <b>\$0.27</b>                                      |

**EXHIBIT 2-23 (Continued)**  
**COUNTY-PAID PUBLIC DEFENDER AND STATE ATTORNEY ADMINISTRATION  
COSTS BY CIRCUIT AND COUNTY AND PER CAPITA, FY2000**

| <b>Circuit &amp;<br/>Counties</b> | <b>Public<br/>Defender<br/>Admin. Costs</b> | <b>State<br/>Attorney<br/>Admin. Costs</b> | <b>Population</b> | <b>Public<br/>Defender<br/>Costs Per<br/>Capita</b> | <b>State<br/>Attorney<br/>Costs Per<br/>Capita</b> |
|-----------------------------------|---|--|-------------------|---|--|
| <b>7</b> Flagler                  | \$1,288                                     | \$49,263                                   | 49,832            | \$0.03  | \$0.99   |
| Putnam                            | \$16,957                                    | \$48,080                                   | 70,423            | \$0.24  | \$0.68   |
| St. Johns                         | \$5,622                                     | \$98,917                                   | 123,135           | \$0.05  | \$0.80   |
| Volusia                           | \$466,090                                   | \$682,573                                  | 443,343           | \$1.05  | \$1.54   |
| <b>Circuit Total</b>              | <b>\$489,957</b>                            | <b>\$878,833</b>                           | <b>686,733</b>    | <b>\$0.71</b>                                       | <b>\$1.28</b>                                      |
| <b>8</b> Alachua                  | \$495,770                                   | \$172,957                                  | 217,955           | \$2.27  | \$0.79   |
| Baker                             | \$1,191                                     | \$0  | 22,259            | \$0.05  | \$0.00   |
| Bradford                          | \$20,716                                    | \$28,854                                   | 26,088            | \$0.79  | \$1.11   |
| Gilchrist                         | \$4,304                                     | \$4,455                                    | 14,437            | \$0.30  | \$0.31   |
| Levy                              | \$18,033                                    | \$22,166                                   | 34,450            | \$0.52  | \$0.64   |
| Union                             | \$1,950                                     | \$1,667                                    | 13,442            | \$0.15  | \$0.12   |
| <b>Circuit Total</b>              | <b>\$541,964</b>                            | <b>\$230,099</b>                           | <b>328,631</b>    | <b>\$1.65</b>                                       | <b>\$0.70</b>                                      |
| <b>9</b> Orange                   | \$332,531                                   | \$490,032                                  | 896,344           | \$0.37  | \$0.55   |
| Osceola                           | \$73,637                                    | \$320,008                                  | 172,493           | \$0.43  | \$1.86   |
| <b>Circuit Total</b>              | <b>\$406,168</b>                            | <b>\$810,040</b>                           | <b>1,068,837</b>  | <b>\$0.38</b>                                       | <b>\$0.76</b>                                      |
| <b>10</b> Hardee                  | \$0   | \$0  | 26,938            | \$0.00  | \$0.00   |
| Highlands                         | \$16,345                                    | \$40,678                                   | 87,366            | \$0.19  | \$0.47   |
| Polk                              | \$130,724                                   | \$281,147                                  | 483,924           | \$0.27  | \$0.58   |
| <b>Circuit Total</b>              | <b>\$147,069</b>                            | <b>\$321,825</b>                           | <b>598,228</b>    | <b>\$0.25</b>                                       | <b>\$0.54</b>                                      |
| <b>11</b> Miami-Dade              | \$7,246,659                                 | \$3,878,970                                | 2,253,362         | \$3.22  | \$1.72   |
| <b>Circuit Total</b>              | <b>\$7,246,659</b>                          | <b>\$3,878,970</b>                         | <b>2,253,362</b>  | <b>\$3.22</b>                                       | <b>\$1.72</b>                                      |
| <b>12</b> DeSoto                  | \$5,951                                     | \$6,577                                    | 32,209            | \$0.18  | \$0.20   |
| Manatee                           | \$424,274                                   | \$428,083                                  | 264,002           | \$1.61  | \$1.62   |
| Sarasota                          | \$248,654                                   | \$240,127                                  | 325,957           | \$0.76  | \$0.74   |
| <b>Circuit Total</b>              | <b>\$678,879</b>                            | <b>\$674,787</b>                           | <b>622,168</b>    | <b>\$1.09</b>                                       | <b>\$1.08</b>                                      |
| <b>13</b> Hillsborough            | \$1,006,463                                 | \$1,088,680                                | 998,948           | \$1.01  | \$1.09   |
| <b>Circuit Total</b>              | <b>\$1,006,463</b>                          | <b>\$1,088,680</b>                         | <b>998,948</b>    | <b>\$1.01</b>                                       | <b>\$1.09</b>                                      |
| <b>14</b> Bay                     | \$265,339                                   | \$279,455                                  | 148,217           | \$1.79  | \$1.89   |
| Calhoun                           | \$11,892                                    | \$29,804                                   | 13,017            | \$0.91  | \$2.29   |
| Gulf                              | \$28,124                                    | \$55,226                                   | 13,332            | \$2.11  | \$4.14   |
| Holmes                            | \$5,115                                     | \$31,106                                   | 18,564            | \$0.28  | \$1.68   |
| Jackson                           | \$55,091                                    | \$49,060                                   | 46,755            | \$1.18  | \$1.05   |
| Washington                        | \$18,146                                    | \$8,844                                    | 20,973            | \$0.87  | \$0.42   |
| <b>Circuit Total</b>              | <b>\$383,707</b>                            | <b>\$453,495</b>                           | <b>260,858</b>    | <b>\$1.47</b>                                       | <b>\$1.74</b>                                      |
| <b>15</b> Palm Beach              | \$4,634,198                                 | \$1,397,826                                | 1,131,184         | \$4.10  | \$1.24   |
| <b>Circuit Total</b>              | <b>\$4,634,198</b>                          | <b>\$1,397,826</b>                         | <b>1,131,184</b>  | <b>\$4.10</b>                                       | <b>\$1.24</b>                                      |
| <b>16</b> Monroe                  | \$239,579                                   | \$124,120                                  | 79,589            | \$3.01  | \$1.56   |
| <b>Circuit Total</b>              | <b>\$239,579</b>                            | <b>\$124,120</b>                           | <b>79,589</b>     | <b>\$3.01</b>                                       | <b>\$1.56</b>                                      |

**EXHIBIT 2-23 (Continued)**  
**COUNTY-PAID PUBLIC DEFENDER AND STATE ATTORNEY ADMINISTRATION  
COSTS BY CIRCUIT AND COUNTY AND PER CAPITA, FY2000**

| <b>Circuit &amp;<br/>Counties</b> | <b>Public<br/>Defender<br/>Admin. Costs</b> | <b>State<br/>Attorney<br/>Admin. Costs</b> | <b>Population</b> | <b>Public<br/>Defender<br/>Costs Per<br/>Capita</b> | <b>State<br/>Attorney<br/>Costs Per<br/>Capita</b> |
|-----------------------------------|---|--|-------------------|---|--|
| <b>17</b> Broward                 | \$964,000                                   | \$2,613,000                                | 1,623,018         | \$0.59  | \$1.61   |
| <b>Circuit Total</b>              | <b>\$964,000</b>                            | <b>\$2,613,000</b>                         | <b>1,623,018</b>  | <b>\$0.59</b>                                       | <b>\$1.61</b>                                      |
| <b>18</b> Brevard                 | \$157,834                                   | \$920,506                                  | 476,230           | \$0.33  | \$1.93   |
| Seminole                          | \$57,976                                    | \$126,472                                  | 365,196           | \$0.16  | \$0.35   |
| <b>Circuit Total</b>              | <b>\$215,810</b>                            | <b>\$1,046,978</b>                         | <b>841,426</b>    | <b>\$0.26</b>                                       | <b>\$1.24</b>                                      |
| <b>19</b> Indian River            | \$50,964                                    | \$161,925                                  | 112,947           | \$0.45  | \$1.43   |
| Martin                            | \$56,143                                    | \$169,557                                  | 126,731           | \$0.44  | \$1.34   |
| Okeechobee                        | \$45,779                                    | \$98,864                                   | 35,910            | \$1.27  | \$2.75   |
| St. Lucie                         | \$116,451                                   | \$601,356                                  | 192,695           | \$0.60  | \$3.12   |
| <b>Circuit Total</b>              | <b>\$269,337</b>                            | <b>\$1,031,702</b>                         | <b>468,283</b>    | <b>\$0.58</b>                                       | <b>\$2.20</b>                                      |
| <b>20</b> Charlotte               | \$54,392                                    | \$77,073                                   | 141,627           | \$0.38  | \$0.54   |
| Collier                           | \$226,625                                   | \$256,102                                  | 251,377           | \$0.90  | \$1.02   |
| Glades                            | \$5,611                                     | \$0  | 10,576            | \$0.53  | \$0.00   |
| Hendry                            | \$24,065                                    | \$64,688                                   | 36,210            | \$0.66  | \$1.79   |
| Lee                               | \$1,115,462                                 | \$690,511                                  | 440,888           | \$2.53  | \$1.57   |
| <b>Circuit Total</b>              | <b>\$1,426,155</b>                          | <b>\$1,088,374</b>                         | <b>880,678</b>    | <b>\$1.62</b>                                       | <b>\$1.24</b>                                      |
| <b>Grand Total</b>                | <b>\$21,102,492</b>                         | <b>\$19,830,881</b>                        | <b>15,982,378</b> | <b>\$1.32</b>                                       | <b>\$1.24</b>                                      |

Source: FY2000 audited annual financial reports.

Despite the importance and strength of the constitutional office, there is a need for flexible standards and guidelines in a number of areas similar to national standards developed by the American Bar Association, National Legal Aid and Defender Association and other statewide indigent defense programs.” The report further notes that “while several circuits have comprehensive personnel policies, performance standards, training and supervisory oversight, many do not.” It recommends that “the Florida Public Defender Association should adopt comprehensive but flexible policies regarding personnel issues, training, caseloads, etc.”

Florida Public Defenders are now required to track and report various statistics as part of performance-based budgeting. The measures and standards approved by the Legislature for FY 2003 are included as Exhibit 2-24.

**EXHIBIT 2-24  
PUBLIC DEFENDER PERFORMANCE-BASED PROGRAM BUDGET AGENCY  
PERFORMANCE MEASURES AND STANDARDS APPROVED BY THE  
LEGISLATURE FOR FY2003\***

|                                      |  |
|--------------------------------------|--|
| <b>Public Defender Trial Program</b> | Percent of PD clients in custody contacted within 72 hours after appointment<br>Percent of felony and misdemeanor cases resolved within speedy trial rule unless dismissed<br>Number of substantiated Bar grievances filed annually<br>Number of appointed cases<br>Number of criminal cases closed<br>Number of civil cases closed<br>Number of pleas<br>Number of trials<br>Number of cases nolle prossed or dismissed<br>Number of clients represented<br>Number of violation of probation hearings represented<br>Number of conflict hearings<br>Number of initial interviews for assigned cases |
| <b>Public Defender Appellate</b>     | Number of appointed cases<br>Number of clients represented<br>Number of briefs filed<br>Number of writs filed<br>Number of cases closed<br>Percentage of appeals resolved<br>Number of substantiated Bar grievances filed annually   |

\* Each Public Defender must track and report these figures for FY2003.  
Source: Florida Public Defender Association



#### **2.11.4 National Best Practices**

The National District Attorneys Association developed the only formal recommended guidelines concerning management of a prosecutor's office, called the National Prosecution Standards. It contains very detailed specifications on the hiring of staff, staff duties, facilities, and office standard components such as the filing system.

Following are summaries of some of the internal operations guidelines:

- When reasonable, prosecutors should implement in-house staff training on civil responsibility issues, with an emphasis on civil liability;
- The prosecutor's office should maintain a staff of professional investigators that are independent of the police and accountable to the prosecutor's office;
- The office manager should be responsible for the function of setting up and making changes to the internal administrative systems, and should be highly skilled in these tasks;
- Each office should develop an internal policies and procedures manual;
- The office should maintain data to monitor and evaluate the performance of the office, including:
  - The number of convictions on the first court charge, listed by each prosecuting attorney and judge;
  - The number of cases disposed through negotiated pleas, listed by each prosecuting attorney and judge; and
  - The number of cases where conviction was obtained on a reduced charge, listed by each prosecuting attorney and judge;
- The prosecutor's office should plan the space utilization and location of the facility to maximize efficient public access and internal workflow. (The handbook provides explicit guidelines on all aspects of facilities planning, such as minimum square footage of workspace by type of staff.);
- Each office should have a centralized filing system;
- Each office should have a library facility; and

- The prosecutor's office should be considered a law firm whose client is the general public.

The National Legal Aid and Defender Association has developed recommended guidelines for the internal operation of public defender offices. These include:

- Establishing maximum pending workload levels for individual attorneys;
- Maintenance of a central filing and record system with daily retrieval of information concerning all open cases. The system should include, at minimum, an alphabetical card index system with a card containing detailed and current information on every open case and a docket book or calendar which contains future court appearance activities;
- Providing defenders (on a weekly or monthly basis) detailed caseload and disposition data, broken down by type of case, type of function, disposition, and by individual attorney workload; and
- Continuous monitoring, assessment, and prediction of office and individual defender attorney caseloads in an attempt anticipate caseload problems and implement preventative actions.

The association asserts that, over time, support staff (investigators, social workers, paralegals, legal secretaries, and office managers) in public defender offices have taken on a more important role in terms of quality and cost-effectiveness. For example, investigators have experience and training that makes them more effective than attorneys at critical case-preparation tasks such as finding and interviewing witnesses, assessing crimes scenes, and gathering and evaluating evidence. Without investigators, these tasks would have to be conducted by an attorney, presumably at a higher cost. Similarly, social workers are able to assess client deficiencies and needs (e.g., mental illness, substance abuse, domestic problems, educational or job-skills deficits), and relate them to available community-based services and resources. Social workers are also capable of preparing a dispositional plan. All of these tasks assist attorneys in fulfilling their ethical obligations with respect to sentencing. Investigators and social

workers are not only better trained to perform these tasks than attorneys, but are also more cost-effective.

The Guidelines for Legal Defense Systems in the United States issued by the National Study Commission on Defense Services identify specific numeric ratios of attorneys to non-attorney staff:

- One full-time Legal Assistant for every four FTE attorneys
- One full-time Social Service Caseworker for every 450 Felony Cases
- One full-time Social Service Caseworker for every 600 Juvenile Cases
- One full-time Social Service Caseworker for every 1200 Misdemeanor Cases
- One full-time Investigator for every 450 Felony Cases
- One full-time Investigator for every 600 Juvenile Cases
- One full-time Investigator for every 1200 Misdemeanor Cases

The National Legal Aid and Defender Association stated:

Numeric guidelines for professional business management staff are not in the National Study Commission guidelines, but the Commission commented that “professional business management staff should be employed by defender offices to provide expertise in budget development and financial management, personnel administration, purchasing, data processing, statistics, record-keeping and information systems, facilities management and other administrative services if senior legal management are expending at least one person-year of effort for these functions or where administrative and business management functions are not being performed effectively and on a timely basis.”

#### **2.11.5 Other State Practices**

The state of New Jersey has a statewide public defender’s office, which oversees regional offices throughout the state. The governor appoints a state prosecutor for each county, but the cost of the prosecutor’s office in each county is paid by the county

government. The state Attorney General's office does provide a minimal amount of oversight and training for state prosecutors.

California state law provides that a district attorney shall be elected to each of the 58 counties in the state. Each elected district attorney is authorized to hire staff as necessary to provide budget, personnel, and data services. California public defenders also are authorized to hire staff as necessary, but funds are provided to public defenders by both the state and the counties in which they serve.

In Connecticut, a 1984 constitutional amendment established the Division of Criminal Justice, which consists of the Office of the Chief State's Attorney and the State's Attorney for each of the 13 judicial districts in the state. The Office of the Chief State's Attorney is responsible for the overall administration of the division and its more than 500 employees and is divided into two subdivisions: administrative and operations. The administrative branch coordinates the activities of the Chief State's Attorney's Office and the 13 State's Attorney's offices, serves as the liaison between the judicial, legislative, and executive branches of government, and is responsible for the payroll, personnel, purchasing, information technology, training, and labor relations for the Division of Criminal Justice. The branch also is responsible for oversight of division offices and facilities and securing and administering grants. The operations branch oversees specialized investigative and prosecutorial units in the Chief State's Attorney's Office, focusing on welfare fraud, statewide prosecution, abuse of the elderly, and appeals.

The Division of Public Defender Services in Connecticut is a state-level agency established by Connecticut statute. The policymaking body and appointing authority for the division is the Public Defender Services Commission, which also has fiscal and budgetary responsibilities, establishes the compensation plan, and approves

expenditures for the division. The chief administrative officer for the division, the Chief Public Defender, is tasked with the supervision of all personnel and operations of the division, training of all attorneys and support staff, and preparation of all grant and budget requests for approval by the commission and submission to the Governor. The management structure of the Office of Chief Public Defender also includes four executive assistant public defenders (personnel director, training director, director of special public defenders, and legal counsel), a financial director, chief investigator, chief social worker, three managers (administrative services, information services, and systems), one assistant public defender for training, 12 administrative support staff, five secretaries, and one clerk. Including administrative and managerial staff, 396 personnel are currently authorized for the division. The commission also contracts with 225 private attorneys to provide conflict representation.

There are 48 district attorneys in Georgia – one for each of the state’s 48 judicial circuits. Each district attorney is an elected constitutional officer and serves as the chief prosecuting officer in the circuit. The district attorney represents the state in the trial and appeal of criminal cases in the Superior Court for the judicial circuit and delinquency cases in the juvenile courts. In 64 counties, misdemeanor cases are prosecuted by the Solicitor-General. Each district attorney’s office has a full-time staff of assistant district attorneys, investigators, and victim assistance and administrative personnel, some paid by individual counties and some state-paid. The Prosecuting Attorneys’ Council of Georgia (PACG) acts as the fiscal officer for Georgia district attorneys, much like the role the JAC plays in the Florida system. The PACG additionally provides legal research assistance and trial assistance upon request, pays filing fees in appeals, establishes salary schedules for all state-paid personnel employed by district attorneys, and

prepares and submits budget estimates of state appropriations necessary for the maintenance and operations of district attorneys and solicitors-general.

The Washington Defender Association's "Standards for Public Defense" outlines the state's objectives and minimum requirements for providing legal representation to indigent defendants in the state. The association created the standards in October 1989, and they were subsequently adopted by the Washington State Bar Association Board of Governors in January 1990. Related to public defender administration, the standards state, "Contracts for public defense services should include the administrative costs associated with providing legal representation. These costs may include travel, telephones, law library, financial accounting, case management systems, the reporting requirements imposed by these standards, and other costs necessarily incurred in the day to day management of cases." Commentary attached to this standard advocates for equal administrative funding of public defenders and prosecutors. Another standard argues that adequate numbers of investigators, secretaries, paralegals, social work staff, mental health professionals, and other support services be provided to public defenders. The standard reads, "These professionals are essential to ensure the effective performance of defense counsel during trial preparation, in the preparation of dispositional plans, and at sentencing." Recommended staffing standards include at least one full-time secretary for every four staff attorneys, though fewer secretaries may be necessary if the agency has access to other secretarial staff, and at least one full-time supervisor for every ten staff lawyers or one half-time supervisor for every five lawyers.

A February 1992 evaluation of the Minnesota Public Defender System by the Office of the Legislative Auditor of the State of Minnesota looked at the structure and administration of the public defender system, especially in response to a 1990 shift in

funding from counties to the state. The study looked at the Board of Public Defense, which oversaw the state system prior to 1991, the ten chief district public defenders, and the State Public Defender's Office. The report noted, "Historically, the public defender system has been locally based and public defenders have operated with considerable autonomy. Therefore, movement toward a state system has been difficult and, at times, highly contentious." The report also found that the structure of the public defender system and its administrative procedures do not provide enough accountability to ensure that the state's monies are being well spent, because:

- The organizational structure permits unusual independence, and the public defender system has more autonomy than most state agencies typically have;
- Decision-making and administrative authority are fragmented between the State Public Defender and the Board of Public Defense, which as of 1991 was changed to an administrative unit under the State Public Defender; and
- Those with oversight and management responsibilities – the board, its staff, and the district chief public defenders – have not fully exercised the authority they do possess. The report states that the board could have used its funding, hiring, and appointment powers to establish expectations and hold people accountable for meeting them, but these policies, procedures, and financial controls have not been established.

Other accountability problems the report highlighted include:

- "Host" county administration, in which counties with no formal authority over the program disburse state monies;
- assigning major administrative duties to part-time attorneys who are not sufficiently trained in management and administration;
- a lack of clarity with respect to who the employer is in the part-time districts;
- the method of contracting with part-time attorneys, in which attorneys are not paid for hours worked or actual work performed; and
- having full-time district employees in two counties remain county employees while entirely funded by the state.

Lastly, the report recommended that the state public defender take the following steps to improve administration and accountability of the system:

- Obtain an independent evaluation of required administrative skills, and restructure or retrain administrative staff to ensure that people with the appropriate skills are on board;
- Change the contracting method to pay attorneys for hours worked or cases handled, and implement contract monitoring procedures; and
- Adopt uniform budget categories and a more detailed spending plan that clearly identified administrative costs, direct service costs, and grants or contracts.

#### **2.11.6 Recommendations**

##### **RECOMMENDATION 2.11-1:**

**Continue to centralize administrative responsibility for budgeting, payroll, accounting and risk management in the Justice Administrative Commission. Consider contracting with counties to assist with certain payroll, purchasing and accounting duties.**

The primary purpose of the JAC, as specified in 43.16, F.S., is to provide administrative support and assistance to the 20 SA offices, the 20 PD offices, and the three Capital Collateral Regional Counsel offices. This includes budgeting, payroll, accounting and risk management functions when state personnel or funds are involved. The volume of this work could increase upon implementation of Revision 7 since some counties provide a substantial number of court employees to the state attorney and/or public defender offices and counties now fund many operating and contractual purchases.

The following options were considered when analyzing alternatives for performing these functions:

- Decentralize the functions by delegating responsibility to the state attorney and public defender offices in the 20 circuits;
- Combine the functions with similar functions being performed by OSCA for court administration and centralize all responsibility in OSCA, JAC; or a new entity within the judicial branch;
- Outsource the functions by contracting with a private firm; and
- Continue to centralize the functions in JAC.

The first option of decentralization was rejected primarily because of the difficulty in optimizing efficiency and in effectively managing and controlling the functions in 43 diverse offices. These are the primary reasons that JAC was initially established.



Centralizing and combining the functions currently performed by JAC and OSCA was considered but we concluded that the potential operating efficiencies would not justify the effort needed to reconcile differences in current operating practices. We suggest this option be revisited after implementation of Revision 7 and after all of the much more significant issues have been addressed.

The outsourcing option was not considered to be feasible because our experience indicates that major firms in the marketplace would not be interested in tailoring their services for an operation of this size. However, the contract to outsource many human resources functions that is currently being implemented in Florida's executive branch agencies should be considered once the cost savings, the level of service, and the effectiveness have been evaluated.

We recommend acceptance of the fourth option that JAC continue to have responsibility for these centralized support functions when state personnel or funds are involved. A review of service delivery methods in other states suggests Florida's model is both efficient and effective. With the potential increase in state responsibilities upon implementation of Revision 7, however, JAC may need more resources if they are to provide all of these services directly. Therefore, consideration should be given to delegating performance of some or all of these activities to the counties, under JAC's direction and control. For example, county personnel could continue to be county employees with the state reimbursing salary and benefit costs. Purchasing and accounting activities could continue to be performed by the counties and/or clerk of court, within JAC guidelines and procedures, with the state reimbursing county processing costs.

#### **RECOMMENDATION 2.11-2:**

**Continue to assign responsibility for human resources, training, and grants management to the circuits so they are able to provide direct employee access and sensitivity to local requirements. Standardized policy and procedural requirements should be developed by a task force of state attorneys and public defenders to guide local activities.**

The options considered for these functions were essentially the same as those considered for payroll, purchasing, accounting and risk management. However, we recommend that these functions be decentralized and assigned to the state attorney and public defender offices in each of the 20 circuits. Human resources, training, and grants management are more variable, more tailored to specific situations, and includes less paperwork processing activities than the other functions. There is a need for more direct accessibility to the circuit employees and for much more sensitivity to local requirements and conditions. The need to tailor these services to specific situations means economies of scale would not yield significant benefits.

A task force of SA and PD office representatives should establish policy and procedural guidelines to help ensure that the circuits provide the services effectively, efficiently and in a consistent manner. Small and medium size circuits may not have enough work to justify assignment of a full-time position to each service. Therefore, they should either

assign them to one or more people as part-time responsibilities or should consider contracting with the counties.

**RECOMMENDATION 2.11-3:**

**Circuits/counties with state prisons should develop agreements with the Department of Corrections that authorize DOC to administratively process minor inmate offenses.**

The number of minor offenses with which state inmates are charged can add significantly to the workload of the state attorneys as well as the courts. Certain state attorneys in circuits/counties where the prisons are located have developed agreements authorizing the DOC to administratively process minor inmate offenses. These same types of agreements should be established in all other circuits/counties with state prisons.

**RECOMMENDATION 2.11-4:**

**Minimize the time between “first appearance” and arraignment by assigning certain personnel to the county jails to expedite processing.**

The less time between an advisory hearing or “first appearance” and the arraignment, the sooner dispositions can be reached and the less time individuals will be incarcerated. Some large circuits have a judge, a state attorney and a public defender assigned at the jail 24 hours a day, seven days a week. The advisory hearing can thereby be conducted soon after booking and well within the 24-hour guideline. If the judge finds there is probable cause for further proceedings, a public defender can be appointed immediately and a decision reached regarding pretrial release. These actions can all take place at the jail and the pre-arraignment investigations can begin immediately after the advisory hearing. Some counties that do not have a judge, state attorney and public defender available at the jail assign a public defender immediately after the advisory hearing. Some use investigators at the jail to conduct initial intake interviews and facilitate early resolution of certain types of cases. Each circuit/county should analyze the volume of bookings at each of the detention facilities and determine how their resources can be cost-effectively deployed to minimize the average time between the “first appearance” and arraignment.

**2.11.7 Potential Cost Reductions**

The potential cost reduction of these recommendations is difficult to quantify but the cost impact is probably negligible relative to the total costs of the state attorneys’ and public defenders’ offices.

## **2.12 Clerks of Court**

### **2.12.1 Definition/Description**

Clerks of court are constitutional officers elected by the voters in each of Florida's 67 counties. The court clerks provide services to the court system, state attorneys' offices and public defenders' offices. These services include case processing, financial processing, jury and witness processing, and child support depository maintenance. The clerk is the keeper of all official court records.

The reported cost of court clerk operations that support the courts was reported to be over \$308 million for FY 2000.

### **2.12.2 Program Delivery Variations**

There is considerable variation across the 67 counties in how the offices of the clerk of court function, the services they provide, and how they are funded. Principal areas of variation include size of staff and their internal organization, reliance on technology in the performance of clerk functions, working relationships with the trial court administrator, and funding relationships with the county government.

Reflecting the vast differences in the population base of each of the state's 67 counties, the variation in the number of employees in clerks' offices is significant. The size of staff and the scale of operations has a direct impact on internal organizational arrangements. Miami-Dade County, being the state's most populous county, also has the largest clerk's office with more than 1,000 employees. In addition to supporting the general court divisions, clerk's office staff support multiple specialty courts and an additional 25 hearing offices, with most staff being assigned full-time duties in only one area. Lafayette County has the smallest clerk staff, with a total of three employees. At this size of operations, the organization of the clerk's office is more integrated, with all staff working across all areas of responsibility of the office.

There is also a significant difference in the reliance on technology for performing clerk functions across the counties. According to the Florida Association of Court Clerks' October 2000 "Recommended Fee Schedule to Fund Court-related Services of the Clerks of the Circuit Court," 31 clerks use predominantly in-house staff to provide management of electronic information systems. Of these, 10 clerks additionally provide support for other county elected constitutional officers, such as judges, tax collectors, and sheriffs. Another 20 clerks provide support for their staff and the judiciary and use a combination of in-house staff and private consultants to provide these services.

Still another area of variation in service delivery across the 67 clerk of court offices is the relationship between the clerk and the circuit's judges and trial court administrator. The FACC's October 2000 report notes there are no statewide standards for the level of services that should be provided by a court clerk to county citizens and the judiciary. The clerk's level of service depends in large part on the availability of financial resources. For instance, a sample of 13 counties showed an average ratio of 6.17 clerks to one judge, but this varied from a low of 3.75 clerks per judge to a high of 9.4 clerks per judge. By Supreme Court rule, the Chief Judge of each circuit is authorized to issue administrative orders, which vary from circuit to circuit depending on local inclinations or needs. The judges' requirements may in some cases create the need for additional clerk personnel (e.g., collection court for delinquent court costs and fees within a county, child support enforcement over and above that provided by statutes). Additionally, when a circuit employs fewer court administration staff, which is the case in smaller, rural areas, local clerks often shoulder more court-related responsibilities.

Finally, there are several different approaches used to fund clerk of court functions. The two major variants are commonly referred to as "fee clerks" and "budget clerks." In pure form, the office of a "fee clerk" is funded through billing the county

commission for services and retention of the fees that the clerk is authorized to charge users of clerk services. Some of these fees are related to the clerk's court functions, such as the filing fee for civil claims under \$100, and others are related to the public trustee function, such as the fee for recording a deed. A "budget clerk," on the other hand, remits fee collections to the county treasury and then receives a budget allocation from the county commission to fund operations of the clerk's office. The Florida Association of Court Clerks has reported that there are 18 fee clerks and 49 budget clerks at the present time. In practice, the budget of all of the clerks relies to some degree on receipt of an allocation from county government, since current fee rates are insufficient to fully fund the clerks' offices. Exhibit 2-25 depicts county expenditures for clerk of court administration by circuit, by county, and per capita.

**EXHIBIT 2-25  
CLERK OF COURT ADMINISTRATION COSTS BY CIRCUIT AND COUNTY AND  
PER CAPITA, FY2000**

|          | <b>Circuit &amp;<br/>Counties</b> | <b>Clerk of Court<br/>Admin. costs</b> | <b>Population</b> | <b>Costs per<br/>capita</b> |
|----------|-----------------------------------|--|-------------------|-----------------------------|
| <b>1</b> | Escambia                          | \$5,329,500                            | 294,410           | \$18.10                     |
|          | Okaloosa                          | \$2,622,587                            | 170,498           | \$15.38                     |
|          | Santa Rosa                        | \$1,733,799                            | 117,743           | \$14.73                     |
|          | Walton                            | \$981,080                              | 40,601            | \$24.16                     |
|          | <b>Circuit Total</b>              | <b>\$10,666,966</b>                    | <b>623,252</b>    | <b>\$17.12</b>              |
| <b>2</b> | Franklin                          | \$378,525                              | 11,057            | \$34.23                     |
|          | Gadsden                           | \$843,346                              | 45,087            | \$18.70                     |
|          | Jefferson                         | \$0                                    | 12,902            | \$0.00                      |
|          | Leon                              | \$5,486,637                            | 239,452           | \$22.91                     |
|          | Liberty                           | \$176,487                              | 7,021             | \$25.14                     |
|          | Wakulla                           | \$347,560                              | 22,863            | \$15.20                     |
|          | <b>Circuit Total</b>              | <b>\$7,232,555</b>                     | <b>338,382</b>    | <b>\$21.37</b>              |
| <b>3</b> | Columbia                          | \$850,550                              | 56,513            | \$15.05                     |
|          | Dixie                             | \$251,257                              | 13,827            | \$18.17                     |
|          | Hamilton                          | \$431,155                              | 13,327            | \$32.35                     |
|          | Lafayette                         | \$100,490                              | 7,022             | \$14.31                     |
|          | Madison                           | \$278,130                              | 18,733            | \$14.85                     |
|          | Suwannee                          | \$538,188                              | 34,844            | \$15.45                     |
|          | Taylor                            | \$332,603                              | 19,256            | \$17.27                     |
|          | <b>Circuit Total</b>              | <b>\$2,782,373</b>                     | <b>163,522</b>    | <b>\$17.02</b>              |
| <b>4</b> | Clay                              | \$2,267,460                            | 140,814           | \$16.10                     |
|          | Duval                             | \$10,292,835                           | 778,879           | \$13.21                     |
|          | Nassau                            | \$1,302,021                            | 57,663            | \$22.58                     |
|          | <b>Circuit Total</b>              | <b>\$13,862,316</b>                    | <b>977,356</b>    | <b>\$14.18</b>              |
| <b>5</b> | Citrus                            | \$1,186,473                            | 118,085           | \$10.05                     |
|          | Hernando                          | \$1,861,235                            | 130,802           | \$14.23                     |
|          | Lake                              | \$3,338,246                            | 210,528           | \$15.86                     |
|          | Marion                            | \$3,508,908                            | 258,916           | \$13.55                     |
|          | Sumter                            | \$939,348                              | 53,345            | \$17.61                     |
|          | <b>Circuit Total</b>              | <b>\$10,834,210</b>                    | <b>771,676</b>    | <b>\$14.04</b>              |

**EXHIBIT 2-25  
CLERK OF COURT ADMINISTRATION COSTS BY CIRCUIT AND COUNTY AND  
PER CAPITA, FY2000 (Continued)**

| <b>Circuit &amp;<br/>Counties</b> | <b>Clerk of Court<br/>Admin. costs</b> | <b>Population</b> | <b>Costs per<br/>capita</b> |
|-----------------------------------|--|-------------------|-----------------------------|
| <b>6</b> Pasco                    | \$6,258,261                            | 344,765           | \$18.15                     |
| Pinellas                          | \$17,464,214                           | 921,482           | \$18.95                     |
| <b>Circuit Total</b>              | <b>\$23,722,475</b>                    | <b>1,266,247</b>  | <b>\$18.73</b>              |
| <b>7</b> Flagler                  | \$566,252                              | 49,832            | \$11.36                     |
| Putnam                            | \$1,452,698                            | 70,423            | \$20.63                     |
| St. Johns                         | \$2,363,221                            | 123,135           | \$19.19                     |
| Volusia                           | \$8,294,040                            | 443,343           | \$18.71                     |
| <b>Circuit Total</b>              | <b>\$12,676,212</b>                    | <b>686,733</b>    | <b>\$18.46</b>              |
| <b>8</b> Alachua                  | \$4,465,264                            | 217,955           | \$20.49                     |
| Baker                             | \$322,379                              | 22,259            | \$14.48                     |
| Bradford                          | \$375,535                              | 26,088            | \$14.39                     |
| Gilchrist                         | \$323,090                              | 14,437            | \$22.38                     |
| Levy                              | \$545,845                              | 34,450            | \$15.84                     |
| Union                             | \$265,363                              | 13,442            | \$19.74                     |
| <b>Circuit Total</b>              | <b>\$79,094,849</b>                    | <b>4,234,591</b>  | <b>\$18.68</b>              |
| <b>9</b> Orange                   | \$15,461,107                           | 896,344           | \$17.25                     |
| Osceola                           | \$3,819,544                            | 172,493           | \$22.14                     |
| <b>Circuit Total</b>              | <b>\$19,280,651</b>                    | <b>1,068,837</b>  | <b>\$18.04</b>              |
| <b>10</b> Hardee                  | \$769,347                              | 26,938            | \$28.56                     |
| Highlands                         | \$1,417,602                            | 87,366            | \$16.23                     |
| Polk                              | \$7,995,449                            | 483,924           | \$16.52                     |
| <b>Circuit Total</b>              | <b>\$10,182,397</b>                    | <b>598,228</b>    | <b>\$17.02</b>              |
| <b>11</b> Miami-Dade              | \$46,387,768                           | 2,253,362         | \$20.59                     |
| <b>Circuit Total</b>              | <b>\$46,387,768</b>                    | <b>2,253,362</b>  | <b>\$20.59</b>              |
| <b>12</b> DeSoto                  | \$431,361                              | 32,209            | \$13.39                     |
| Manatee                           | \$4,015,748                            | 264,002           | \$15.21                     |
| Sarasota                          | \$5,602,776                            | 325,957           | \$17.19                     |
| <b>Circuit Total</b>              | <b>\$10,049,885</b>                    | <b>622,168</b>    | <b>\$16.15</b>              |
| <b>13</b> Hillsborough            | \$19,475,845                           | 998,948           | \$19.50                     |
| <b>Circuit Total</b>              | <b>\$19,475,845</b>                    | <b>998,948</b>    | <b>\$19.50</b>              |
| <b>14</b> Bay                     | \$2,403,078                            | 148,217           | \$16.21                     |
| Calhoun                           | \$254,629                              | 13,017            | \$19.56                     |
| Gulf                              | \$314,513                              | 13,332            | \$23.59                     |
| Holmes                            | \$248,052                              | 18,564            | \$13.36                     |
| Jackson                           | \$519,308                              | 46,755            | \$11.11                     |
| Washington                        | \$267,325                              | 20,973            | \$12.75                     |
| <b>Circuit Total</b>              | <b>\$4,006,905</b>                     | <b>260,858</b>    | <b>\$15.36</b>              |

**EXHIBIT 2-25  
CLERK OF COURT ADMINISTRATION COSTS BY CIRCUIT AND COUNTY AND  
PER CAPITA, FY2000 (Continued)**

| <b>Circuit &amp;<br/>Counties</b> | <b>Clerk of Court<br/>Admin. costs</b> | <b>Population</b> | <b>Costs per<br/>capita</b> |
|-----------------------------------|--|-------------------|-----------------------------|
| <b>15</b> Palm Beach              | \$22,812,844                           | 1,131,184         | \$20.17                     |
| <b>Circuit Total</b>              | <b>\$22,812,844</b>                    | <b>1,131,184</b>  | <b>\$20.17</b>              |
| <b>16</b> Monroe                  | \$2,259,717                            | 79,589            | \$28.39                     |
| <b>Circuit Total</b>              | <b>\$2,259,717</b>                     | <b>79,589</b>     | <b>\$28.39</b>              |
| <b>17</b> Broward                 | \$24,552,108                           | 1,623,018         | \$15.13                     |
| <b>Circuit Total</b>              | <b>\$24,552,108</b>                    | <b>1,623,018</b>  | <b>\$15.13</b>              |
| <b>18</b> Brevard                 | \$0                                    | 476,230           | \$0.00                      |
| Seminole                          | \$5,812,159                            | 365,196           | \$15.92                     |
| <b>Circuit Total</b>              | <b>\$5,812,159</b>                     | <b>841,426</b>    | <b>\$6.91</b>               |
| <b>19</b> Indian River            | \$2,253,389                            | 112,947           | \$19.95                     |
| Martin                            | \$2,769,949                            | 126,731           | \$21.86                     |
| Okeechobee                        | \$777,456                              | 35,910            | \$21.65                     |
| St. Lucie                         | \$4,318,251                            | 192,695           | \$22.41                     |
| <b>Circuit Total</b>              | <b>\$10,119,045</b>                    | <b>468,283</b>    | <b>\$21.61</b>              |
| <b>20</b> Charlotte               | \$2,169,384                            | 141,627           | \$15.32                     |
| Collier                           | \$4,176,056                            | 251,377           | \$16.61                     |
| Glades                            | \$297,248                              | 10,576            | \$28.11                     |
| Hendry                            | \$501,206                              | 36,210            | \$13.84                     |
| Lee                               | \$4,598,776                            | 440,888           | \$10.43                     |
| <b>Circuit Total</b>              | <b>\$11,742,670</b>                    | <b>880,678</b>    | <b>\$13.33</b>              |
| <b>Grand Total</b>                | <b>\$347,553,949</b>                   | <b>19,888,338</b> | <b>\$17.48</b>              |

Source: FY2000 audited annual financial reports.

**2.12.3 Stakeholder Entity Input**

Pursuant to section 12(1) of Chapter 2000-237, Laws of Florida (Ch. 29, F.S.), the clerks were required to develop a detailed description of services currently provided to the state courts system, state attorneys, and public defenders and to recommend which services should be continued. Clerks have identified five statutorily mandated services:

1. Case Processing. This includes case maintenance (things required to process a court case), records management, court preparation and attendance, reopening cases, appeals, tenant eviction, small claims, mental health and domestic violence intake services.



2. Financial processing services. This includes fiscal performance of the Clerks such as financial activities and tasks.
3. Information and reporting services. This includes all activities and tasks associated with updating and informing the public, judiciary, attorneys, and other governmental agencies.
4. Jury and witness processing services. This includes all activities and tasks associated with creating the annual jury list, drawing the jury venire, summoning jurors to court, taking action per direction of the court on persons not showing up for court and paying jurors and witnesses.
5. Child support depository services. This includes all activities and tasks associated with collecting, recording, reporting, disbursing and monitoring of alimony and child support payments.

Included in the description of these activities are illustrations of how technology is now and will continue to be used to ensure that best practices are utilized in the performance of these duties (Appendix L3). Some identified technology tools to facilitate the implementation of best practices service delivery are described below, identified by the statutorily mandated service they support:

- Information and Reporting Services
  - Statewide use of the Official Records Search and Document Ordering system, which allows users to electronically search and order available official records from multiple counties within Florida.
  - Statewide use of the Traffic Citation Accountability and Transmission System, which will provide a statewide traffic system that will improve the accountability of traffic citation information as well as to improve the accounting for the monies collected from violations.
- Jury and Witness Processing Services
  - Statewide use of a Jury and Witness Management System. To date, this system has been implemented in thirty-two Florida county clerk offices. This system supports a state-approved random method for Petit or Grand Jury selection, and management of the jury through payment of services.

- Case Processing Services
  - Statewide use of the Comprehensive Case Information System (CCIS), which is under development by the FACC. The CCIS is designed to provide statewide and circuitwide Internet-based access to case information, by querying on either an individual or case basis. The CCIS is a three-phased development effort. The project is currently in Phase I, which includes pilot implementation and testing within the 14<sup>th</sup> circuit. Phase II will incorporate at least two additional circuits, and Phase III will encompass statewide implementation.
- Child Support Depository Services
  - In partnership with the Department of Revenue, a statewide system was created to establish a disbursement unit to integrate all clerk offices and depositories, through which payment data is transmitted to the DOR's automated child support enforcement system. This statewide child support system has expanded over time to provide for interface with both a statewide payment processing system (the State Disbursement System) and the state/federal case reporting system (the State Case Registry).

The *Article V Performance and Accountability System* developed by the Florida Association of Court Clerks (FACC) includes detailed definitions of court clerk responsibilities in terms of programs, services, activities, sub-activities and tasks for their court-related functions.

In addition, Florida Clerks of Court are working with the state's trial courts and the Office of the State Courts Administrator to clearly define the functions and duties of both the clerks and court administration. The Report on the Findings and Agreements of the Joint Trial Court/Office of the State Courts Administrator/Florida's Clerks of Court Workgroup on Functions and Duties released in February 2003 concluded that:

- Clerks of court would no longer use the term "Case Management" in referring to tasks performed as a function of case maintenance, but would apply the term "case maintenance";
- Trial courts would no longer use the term "intake" to refer to case screening and evaluation, since initial system intake is a clerk function; and

- Trial court utilization of the term “adjudication support” presented the perception of an “all encompassing” support function without delineation and it was agreed that the appropriate term to define the intent of the function description was “Case Management” and that the term “adjudication support” would no longer be used.

The workgroup also produced a matrix of administration and process support of the trial courts with associated recommendations as to which entity should provide the support.

This matrix and the report are included as Appendices L1 and L2.

#### **2.12.4 National Best Practices**

There are several international- and national-level organizations that court clerks belong to, including the International Association of Clerks, Recorders, Election Officials, and Treasurers (IACREOT) and the National Association of County Recorders, Election Officials, and Clerks (NACRC). These organizations provide networking and continuing education opportunities for members, but do not provide any substantive research or advocacy on behalf of court clerks. Also, the members of these groups provide a variety of services under very different state and local regulations, which would make the development of standards or best practices difficult.

#### **2.12.5 Other State Practices**

New Jersey has addressed the conflicts in responsibilities between court clerks and court administrators over the last 14 years. In 1989, the legislature passed a law that stated that at such time as the courts became entirely funded by the state, each elected clerk would be allowed to choose whether they wanted to (a) fulfill the record-keeping and other administrative functions of the court, thereby becoming an appointed position or (b) fulfill non-judicial “partisan” functions. In 1995, when NJ implemented state funding of the trial courts, all but two clerks chose to assume the non-judicial functions of their positions, thereby leaving all administrative functions to an appointed

court manager/administrator. Therefore, court records in New Jersey are maintained by the court administrators.

In California, trial court administrative functions are performed by either the clerk of court or the court administrator, depending on the county. The clerk functions are said to not overlap with administrative functions in the counties where there is a court administrator.

The Texas court structure divides the state into 254 counties and 418 judicial districts, each with its own court. Each judicial district has a district court of general civil and criminal jurisdiction, and each county has at least a constitutional county court of limited civil and criminal jurisdiction. However, unlike in Florida, the county courts and district courts are not connected. Counties and cities may also form municipal courts, county courts at law, or statutory probate courts, dependent upon local needs and funding. By statute, each county has a county clerk, and each district has a district clerk, but in smaller, rural areas, one person may serve both functions. In terms of court clerk functions, local needs determine which functions the clerk will perform and which functions will be performed by the court administrator, if a county or district has one. These clerks belong to various organizations in the state, including the Texas Court Clerks Association and the Texas Municipal Clerks Association.

Ohio clerks of court are the “portals to court systems throughout the state.” All cases and documents filed with a court or orders issued from a judge are processed through the computerized systems in the clerks’ offices. The 88 elected clerks also act as the court and the state’s bookkeepers and are responsible for collection of court fees and the issuance of motor vehicle, watercraft, trailer, and mobile home titles.

Michigan courts are organized into circuit and district courts, much like Florida’s circuit and county courts. However, it appears that in some districts one person performs

both court administrator and clerk functions. For instance, in the 47<sup>th</sup> District (Farmington), one person acts as court administrator, managing all non-judicial functions of the court, and as clerk, responsible for preparing, maintaining, managing, and providing access to court files and records as governed by Michigan court rules. In some circuit courts in Michigan, such as the Ninth Circuit (Kalamazoo), the circuit court monitors and maintains court records under a cooperative agreement with the county clerk/register. Per the arrangement, the chief court clerk and staff are officially considered deputy county clerks. As the Records Services unit, they are responsible for all official records at the circuit court and receive and disburse court ordered payments.

In at least one circuit in Tennessee (26<sup>th</sup> Judicial Circuit), the circuit court clerk's duties are clearly defined:

The Circuit Court Clerk's Office is responsible for maintaining and accurately keeping all records and minutes of the court. This includes misdemeanor and felony criminal cases, civil cases over \$15,000, post convictions, workers' compensation, condemnations, hospital liens, garnishments, executions, name changes, restoration of citizenship, foreign judgments and keeping records on the criminal and civil jurors for all divisions. The Clerk's office also files the Grand Jury report each month and processes the paperwork for each defendant; is responsible for preparing and transferring all records for cases on appeal to a higher court and has the responsibility of collecting, receipting, and accounting for all fines, court costs, and restitution.

#### **2.12.6 Recommendations**

##### **RECOMMENDATION 2.12-1:**

**Identify and resolve any differences between the responsibility and activity definitions developed by FACC and those to be developed by OSCA.**

Since the 1972 revision of Article V, the 67 court clerks and 20 circuit courts have determined, in a relatively independent manner, which entity would be responsible for which case management processes and functions. In some circuits, the court clerks are responsible for victim and witness assistance programs, coordinating court appearances, conducting educational seminars in domestic violence cases, conducting certain types of mediation, and other statutorily authorized—but not mandated—functions. In other circuits, court administration performs most of the case management functions. Since funding and control of court administration and the court-related

functions of court clerks will be quite different upon implementation of Revision 7, clear and consistent statewide definitions of responsibilities and functions are very important.

The *Article V Performance and Accountability System* developed by the Florida Association of Court Clerks (FACC) includes detailed definitions of court clerk responsibilities in terms of programs, services, activities, sub-activities and tasks for their court-related functions. These definitions provide an excellent basis for comparing operational responsibilities and interfaces between the 67 court clerks and 20 circuit court administrators.

Once the Commission on Trial Court Performance & Accountability (TCP&A) and OSCA have developed their definitions of essential case management responsibilities and activities for court administration, FACC and OSCA staff should carefully review each other's definitions. Any conflicts, duplications or omissions between the two sets should be identified and the parties should attempt to reach preliminary agreements as to how the responsibilities will be reconciled. These results should then be reviewed with representative bodies of the court administrators (TCP&A) and court clerk (designated task force). The approval of both groups should be sought and the results presented to the legislature for their concurrence. It may be noted that a joint workgroup of OSCA and FACC was recently formed to address these issues and their report indicated agreement in many areas when conflicts or duplications currently exist.

Implementation of this recommendation may necessitate legislation to address realignment of responsibilities and functions between court clerks and court administration if significant conflicts, duplications and/or omissions are identified.

## **RECOMMENDATION 2.12-2:**

### **Develop a strategy and action plan for conforming court clerk operations to the defined responsibilities and functions.**

The operations of the 67 court clerks vary greatly in terms of their current functions, activities and procedures. Some variations reflect the very significant differences in county sizes but many are the result of independent policy decisions made over the years, the influence of the respective boards of county commissioners, the availability of resources, personal preferences of the incumbents, and many other factors. Therefore, it will not be easy to conform these diverse operations to the responsibility and activity definitions approved by the court clerk task force, let alone other changes introduced through the court administration reconciliation process.

The magnitude of the change process and the very limited time now available for implementation mean that an effective strategy, plan and timetable are critical. Not only must all the new requirements be clearly communicated to all counties, but the counties must also analyze each of their current functions, identify any differences with the new definitions, and determine how each change can be made. Because of the substantial differences in county sizes, not all of the required changes will be obvious. Some functions may need to be carefully analyzed to determine if and how the operations can be conformed to the standards. Implementation of some changes may require changes in local ordinances, staffing levels, personnel assignments and computer systems as

well as the development of public communication programs, procedural documentation, training programs, etc. Court clerk management will also need to coordinate with circuit court administration so that any changes in responsibilities are seamless and non-disruptive. They must also work with their own employees to help overcome people's normal resistance to change. These actions must all occur while the office continues to conduct the normal day-to-day court and county business. The recommended strategy and plan, therefore, must not only be well-designed but must also include a monitoring and status reporting element.

#### **RECOMMENDATION 2.12-3:**

**Develop and implement more efficient, “customer-friendly” processes for the payment of fines using credit cards and intelligent voice recording or Internet Web site processes.**

Vendors offer a variety of automated systems for the payment of fines and charges. These systems are not only more “customer-friendly” than the traditional mail or in-person payment processes but are also more effective and efficient. The two types of methodologies are both designed to use credit cards. An intelligent voice recording system interacts with the caller to obtain necessary identification and credit card information through keypad responses. Several vendors offer a second type of system that involves payment through an Internet Web site.

While a few counties have installed automated payment systems, most have not. We recommend that the FACC establish a task force of court clerks and in-house technology staff to identify potential systems and vendors, to evaluate the offerings, and to recommend the most cost-effective system(s). The recommendation will probably vary by size of county and the status of their existing technology. For example, an automated system would probably not be justified in most smaller counties. If the court clerk's office does not currently have access to the Internet or access is not expected in the near future, the intelligent voice recording system would be preferable.

In addition to identifying and evaluating vendor offerings, the task force should develop an inventory specifying each county's current payment process, annual payment volume, the status of Internet access, possible sources of funding, and whether any unusual factors are present that could influence automation. This information should provide the basic information needed for the task force to determine whether vendor price reductions would be available for multiple county purchases of the same system. Once the technical and financial issues are addressed, an overall master plan and schedule should be established to help guide the county acquisition and installation efforts.

#### **2.12.7 Potential Cost Reductions**

We estimate the cost incurred by the court clerks to provide court-related services could be reduced by two to five percent through implementation of the first two

recommendations. This estimate is based on our experience with similar studies where standardized policies and procedures are established to help guide the decision-making and operations of 67 independent organizational entities. The change in functional responsibility will also have a significant impact on costs in counties that are providing court services beyond those that will be specified when responsibilities between the court clerks and court administration are reconciled.

### **2.13 Summary of Potential Cost Reduction**

For each of the system elements addressed in this project phase, Exhibit 2-26 on the following page summarizes:

- the judicial system entity(ies) whose budget would be affected by the recommendations;
- the approximate FY 2000 total expenditures for the element; and
- the estimated percentage of potential cost reduction.

It should be emphasized that the potential cost reduction would only be realized upon implementation of the recommended improvements. This would require more than a year for most recommendations and, in some cases, a substantial investment in information technology.



**Recommendations to Increase Efficiency/Reduce Costs of  
Essential Judicial System Activities**

**EXHIBIT 2-26  
POTENTIAL COST REDUCTIONS**

| <b>JUDICIAL SYSTEM<br/>ELEMENT</b>     | <b>ENTITY<br/>BUDGET</b>        | <b>FY 1999-<br/>2000 COST<br/>(Millions)</b> | <b>ESTIMATED<br/>PERCENT<br/>REDUCTION</b> | <b>DOLLAR<br/>REDUCTION<br/>(Millions)</b> |
|--|---------------------------------|--|--|--|
| Court-appointed Counsel                | PD, JAC,<br>Other               | Over \$37                                    | 5% to 15%                                  | \$1.8 to \$5.6                             |
| Court Reporters                        | Courts                          | \$18 to \$28                                 | 20% *                                      | N/A **                                     |
| Court Interpreters                     | Courts,<br>OSCA                 | \$4 to \$5                                   | 2% to 5%                                   | \$0.2 to \$0.3                             |
| Witnesses/Evaluators                   | Courts,<br>OSCA, SA,<br>PD, JAC | \$14 to \$20                                 | 2% to 5%                                   | \$0.3 to \$1.0                             |
| Jury Management                        | Courts,<br>SA, PD               | \$3 to \$4                                   | Insignificant                              | Insignificant                              |
| Court-Based Mediation &<br>Arbitration | Courts                          | \$6 to \$8                                   | 5% to 15%                                  | \$0.3 to \$1.2                             |
| Masters/Hearing Officers               | Courts                          | \$6 to \$7                                   | 1% to 2%                                   | \$0.1 to \$0.1                             |
| Case Management                        | Courts                          | \$15 to \$20                                 | 15% to 20%                                 | \$2.2 to \$4.0                             |
| Court Administration                   | Courts                          | \$25 to \$30                                 | 10% to 15%                                 | \$2.5 to \$4.5                             |
| Judges and Related<br>Support          | Courts                          | \$193  | Insignificant                              | Insignificant                              |
| State Attorneys & Public<br>Defenders  | SA, PD                          | \$434  | Insignificant                              | Insignificant                              |
| Clerks of Court                        | Clerks                          | \$300  | 2% to 5%                                   | \$6.0 to \$15.0                            |
|  |                                 |  |  | <b>\$13.4 to \$31.7</b>                    |

\* Per site after conversion to digital electronic reporting

\*\* Cannot be determined since number of sites where conversion is cost-justified is not currently known

### ***3.0 INFORMATION TECHNOLOGY***

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## **3.0 INFORMATION TECHNOLOGY**

### **3.1 Overview**

Information technology is as indispensable to the Florida Judicial System as it is to virtually every other aspect of Florida state government. Although many forms of technology are in use in the judicial system, MGT has focused primarily on the more significant computer-based systems.

The total statewide annual expenditure in support of information technology for the judicial system has been estimated to be as high as \$91 million. However, the degree to which the circuits and counties are able to apply reasonably modern information technology varies dramatically. This is not a trivial matter given Florida's extensive court system and its purpose, and the Legislature's expressed interest in ultimately achieving statewide networking of the courts to provide performance and accountability data to both the courts and the Legislature.

Virtually every form of information technology, from the old to the modern, is in use somewhere within the Florida judicial system. The technology ranges from basic office-support functions such as word-processing and e-mail, to fairly sophisticated processes that integrate several systems to move court-related information rapidly and accurately through a court process. This technology is supported primarily by the counties. Some court technology is applied uniquely in the county within which the court operates; however, technology is also applied on a multicounty basis within a circuit, and some technology is also applied on a multicircuit basis.

Florida's judicial system receives technology support from a variety of sources. Two primary sources are the counties and the Clerks of the Court. In counties where the primary provider is the county information systems organization, the Clerk of the Court

must negotiate with the county in responding to a technology-related request or demand from the court.

A number of counties are supported through unique organizations such as the Florida Association of Court Clerks, which provides both multicounty and statewide technology support. Some courts use the services of private sector technology providers through arrangements with a governmental or other authorized entity. One example is the Florida Association of Court Clerks (FACC), which manages a contract with a private sector firm to support the State Disbursement Unit (SDU) for the distribution of child support funds. Orange County is another example; the county relies on services provided by a private firm to support an on-line judicial inquiry system.

Although the Clerks in many instances end up negotiating with the counties, which provide the bulk of court technology and support, they are nevertheless important participants in the court technology support chain.

**State Technology Support.** State-level technology support for the courts is provided by a number of delivery systems, including:

- the Supreme Court, through subdivisions of the court such as the Office of the State Court Administrator (OSCA), the Florida Courts Technology Commission, and the Trial Courts Technology Committee;
- the Florida Association of Court Clerks, through systems such as the State Distribution Unit;
- the Florida Department of Law Enforcement, through CJNet and other avenues;
- the Florida Criminal and Juvenile Justice Information Systems Council;
- Court Technology Officers (one per judicial circuit); and
- the State Technology Office (STO), through participation in initiatives such as the Secured Access to Florida's Enterprise Resources (SAFER) project, a joint effort of the STO and the OSCA to provide a central information sharing facility for participating state agencies,

including the courts. The intent of the SAFER project is to make information contained in multiple existing systems easily accessible via modern Web browser technology.

The computer-based applications listed below are in use throughout the Florida judicial system, but not in all circuits. Moreover, the applications are in most instances not consistent in terms of specific functionality, although, as noted earlier in this chapter, there are some applications that are used by multiple jurisdictions. Significant information technology applications supporting the courts include:

- Budget
- Civil
- Criminal
- Divorce
- Docket
- Domestic Violence
- Drug
- Family
- Jury
- Juvenile
- Mental Health
- Probate
- Purchasing
- Traffic
- Witness

In addition to these applications, which can vary from jurisdiction to jurisdiction in terms of their specific functionality and technologies used, there are statewide computer-based applications and networks that help support court processes. Some examples are as follows.

**Caseload Data.** In accordance with section 25.057 of the Florida Statutes, the Supreme Court has developed, and maintains, a uniform case reporting system, commonly known as the Summary Reporting System (SRS). The purpose of the SRS is to provide the Office of the State Courts Administrator (OSCA) with data from the various courts to assist the Supreme Court in its management and oversight roles. According to the Florida State Courts System Summary Reporting System Manual, “The primary

purpose of the SRS is the certification of need for additional judgeships.” The state attorneys and public defenders also report caseload data through separate systems in accordance with the performance-based budgeting initiative established by the Legislature pursuant to Chapter 216 of the Florida statutes, as noted in a February 2003 report issued by the Auditor General (Report No. 03-114). In his report, the Auditor General cites the duplication in these caseload reporting systems, raises questions regarding the reliability of the data and timeliness of reporting, and recommends that the Supreme Court, the state attorneys and the public defenders explore the possibility of jointly developing one Statewide system that would provide timely, accurate and reliable data in a more efficient and effective manner. Responses from the three principal groups to the Auditor General’s recommendation ranged from unqualified support to not opposing a single statewide system provided that certain needs were met, underscoring the difficulty of achieving statewide goals while at the same time assuring that the legitimate needs of each participant are also satisfied.

**State Disbursement Unit (SDU).** Consistent with state law, the Florida Association of Court Clerks is responsible for the maintenance and operation of the State Disbursement Unit (SDU). The SDU enables the State of Florida to comply with federal requirements relating to child support, ensuring that a uniform system is used statewide, and thus enabling the Clerks of the Court to disburse child support payments and maintain official records of child support orders entered by the state’s courts. The computer system supporting the SDU was developed by a private sector company and is operated by that company, under the direction of the FACC. The SDU is a true statewide system and as such provides an excellent test bed for validating statewide, standards-based approaches to meeting statewide needs.

**Justice Administrative Commission.** The Justice Administrative Commission (JAC) is responsible for providing centralized administrative services and assistance to the state attorneys, public defenders, and capital collateral regional counsels. These services include voucher, revenue, personnel, payroll, and budgetary processing, as well as various advisory services. The JAC and more than three-fourths of the state attorney and public defender offices use the Business Office Management System (BOMS), an automated system developed by a private company, that captures administrative and accounting information. The JAC houses, and the private company maintains, a recently developed system (E-Batch) that permits the JAC to electronically receive certain accounting transactions from participating State Attorneys and Public Defender offices that use the BOMS, and also permits the electronic transfer of that information from the JAC to the Florida Accounting Information Resource Subsystem (FLAIR). Currently, only two State Attorney offices utilize the new E-Batch system. Although participation in the new system is voluntary, the JAC anticipates that additional circuits will join as the process becomes more streamlined and as funds become available.

**Florida Crime Information Center (FCIC).** The FCIC is a statewide network of databases and data exchanges that maintain criminal history records about wanted and missing persons, stolen property, domestic violence injunctions, parole statuses, deported aliens, and registered sexual predators. The FCIC is managed by the Florida Department of Law Enforcement (FDLE).

**Offender Based Information System (OBIS).** The Bureau of Corrections houses the major databases comprising the Offender Based Information System (OBIS). The information contained in these databases is used to calculate release dates, determine felony class and guidelines severity level, and determine whether an inmate has a

minimum mandatory sentence. The databases also contain demographic information, such as race, gender, ethnicity, marital status, age, citizenship, and military service.

***Comprehensive Case Information System (CCIS).*** In addition to these existing applications of technology in support of state court processes, additional systems are planned or in the process of coming into production. For example, the CCIS, under development by the Florida Association of Court Clerks, is designed to provide statewide and circuitwide Internet-based access to case information, by querying on either an individual or case basis. The CCIS is a three-phased development effort. The project is currently in Phase I, which includes pilot implementation and testing within the 14<sup>th</sup> Judicial Circuit. Phase II will incorporate at least two additional circuits, and Phase III will encompass statewide implementation.

### **3.2 Significant Issues**

MGT has identified a number of issues that should be considered by the Legislature in seeking solutions to information technology challenges.

***Disintegrated, Nonstandard, and Nonuniform.*** Florida's system of freeways, highways and roads is a fair example of a highly integrated system based on standards and uniform rules. As such, it is a well-defined infrastructure that supports the efficient movement of vehicles and people throughout the state. A person accessing that infrastructure is able to get from one point to the other regardless of whether they are on a freeway, a highway, or a country road. In contrast, Florida's judicial system relies on an information technology infrastructure that is not integrated, that has few statewide standards, and where the rules of the road vary according to the different technologies employed.



This is not intended as a criticism of the judicial system, the counties, or anyone else providing technology in support of judicial operations. Florida's situation is not much different from the situation that exists in a large number of both corporate and public sector organizations where technology has over the years been implemented independently and in the absence of comprehensive planning that focuses on the enterprise as a whole. Too often the focus is on but one component of the enterprise. This situation represents, however, a very significant issue, which, until it is addressed and resolved, will prevent the Legislature from attaining its goal of an improved judicial system that can readily provide the performance data and other desired information to the Legislature.

***Lack of Technical Consistency.*** Not surprising, the fragmented nature of much of the current judicial system information technology infrastructure has a corollary in the form of a lack of technical consistency. Many applications run on different hardware and use different software in the different jurisdictions. There are technical inconsistencies even within some jurisdictions. Consequently, although a recent survey done by the Office of the State Courts Administrator (OSCA) showed many courts using the same generic applications (such as criminal, family, and jury), those applications are similar in generic name only. In fact, they vary not only in terms of specific functionality, but are technically inconsistent because they do not all run on the same hardware and software platforms.

***Haves v. Have Nots.*** An additional significant issue that works against an efficient and effective statewide judicial information system is the very significant disparity among the counties with respect to funding computer support. Some counties have been able to apply substantial sums of money to develop and maintain computer applications that improved the efficiency and/or effectiveness of their judicial operations,

while others have fairly primitive systems with few computer-based tools. The state has made funding available for counties without adequate funding through various means. These funds have included grants and trust funds statutorily established by the state that are derived from the filing fees of the courts. Each circuit receives state funding for a Court Technology Officer (CTO), who is responsible for providing technology vision and leadership for developing and implementing court technology initiatives within the circuit. These are not trivial responsibilities, and in recognition of the important role of the CTO, some counties have provided additional resources to assist the CTO in the fulfillment of these responsibilities. In less affluent counties, the lack of additional resources to support the CTO limits severely their ability to fulfill their primary mission. This can occur when the CTO's time is diverted from developing and implementing court technology initiatives to helping those who would otherwise receive no help with an immediate problem concerning their use of information technology.

***Current Infrastructure is Costly.*** The foregoing not only illustrates problematical aspects of the information technology infrastructure used by Florida's judicial system, it also describes an environment wherein inefficiencies directly attributable to that infrastructure keep statewide court-related costs higher than would be the case were the systems well-designed and integrated. For example, MGT learned that, not infrequently, court sessions need to be rescheduled because of a failure somewhere in some computer-based system and/or process used by the court. The failure could be an outright system failure, or it could be one of not entering key information in a timely manner, entering it incorrectly, or failing to obtain information from another computer-based system in time for the court proceedings. Rescheduling is more than simply adjusting the court calendar. It can carry with it a significant resource cost in the form of wasted time on the part of the judge, the bailiff, the state attorney, the public defender,

and the court reporter. Some may view this as a “soft” cost in that the positions involved are all funded regardless of whether proceedings are held as scheduled. The real cost is in fact “hard” in that delay can cause a defendant to remain in jail longer than may have been the case had the court schedule been maintained. The cost of incarceration is a county cost. Moreover, the waste of time incurred by the court simply adds to existing backlogs, and if backlogs get too great then additional resources may be requested. If these requests are granted, costs are driven up higher than would be the case if there were a more effective information technology infrastructure in place.

The total statewide cost of inefficiencies directly attributable to inadequate information technology support to the Florida judicial system is likely quite significant when one considers *all* aspects of the current information technology infrastructure. Old technologies tend to be more costly over time, as well as troublesome simply from the perspective of trying to keep them operational. The cost to patch together linkages among disparate systems to obtain essential information can well exceed the cost to design and develop new systems. The cost of duplicative data entry necessitated because systems are not integrated is without doubt a substantial statewide cost.

The cost to the citizens of Florida resulting from judicial decisions made without all of the relevant facts because of the lack of simple, accurate, and timely statewide information exchange, while difficult to estimate, is also likely to be substantial. Moreover, there is a societal cost in terms of equity resulting from the fact that some courts are relatively well-provided for in terms of information technology support, while others have essentially primitive support.

### **3.3 Recommendations**

Five recommendations are presented in the following section: statewide governance; the Legislature's goals versus a funding model; a methodology for implementing court information requirements; existing court information reporting requirements; and need for focus on continuous improvement.

#### **RECOMMENDATION 3.3-1:**

**Establish a plan for statewide governance of the information technology infrastructure used by the state judicial system that would allow stakeholders to operate within the context of statewide vision. The Supreme Court, through the Florida Courts Technology Commission, appears to be well positioned to assume this responsibility, with the involvement of state attorneys, public defenders, court clerks, and the Legislature.**

No organization is currently responsible for governing information technology within the state judicial system. The Supreme Court, through the Office of the State Courts Administrator (OSCA) and the Florida Courts Technology Commission, establishes statewide plans and standards but cannot ensure that the counties will be fully responsive. County fulfillment of the needs expressed by the courts is already problematic in some areas and will likely become a major issue if counties are expected to fund the information technology infrastructure supporting a state-funded court system. Even without the issue of state versus county funding, controls are needed to ensure that costs and funding are considered when changes are demanded.

The multiple stakeholders in the state's judicial technology environment only complicate the governance issue. In addition to the Supreme Court (and its information technology-related offices, commissions, and committees), other significant stakeholders include: the Public Defenders, the State Attorneys, the individual Clerks of the Court, the counties, the Florida Association of Court Clerks, the Justice Administrative Commission, the State Technology Office, and the Florida Department of Law Enforcement.

Each of these entities plays a unique role with respect to the provision of information technology support to the Florida state judicial system. Ideally, they would operate within the context of statewide vision where all would be on the same boat and rowing in the same direction. That is not the case with the current governance structure, because it is a structure that has grown over time, with competing interests and differing constituencies.

A key factor to improving the information technology infrastructure will be to improve the governance. The Supreme Court appears to be well-positioned to assume the responsibility for determining how best to improve governance of the current information technology infrastructure, because through the Florida Courts Technology Commission (FCTC) the Supreme Court has focused its efforts for improving the state courts' uses of technology.

As prescribed in Supreme Court Administrative Order No. AOSC01-29, the FCTC is responsible to:

- Recommend policy governing the use of technology resources in the state courts system.
- Set priorities for appellate and trial court technology budgets and present recommendations to the Appellate Court Budget Commission and the Trial Court Budget Commission.
- Review and recommend to the Supreme Court approval of technical and functional standards developed by both the Appellate Technology Committee and the Trial Court Technology Committee. Assure that the technology supporting the state courts system is capable of integrating with both the appellate and trial courts.
- Approve technology plans developed by the Trial Court Technology Committee and Appellate Technology Committee.

Clearly, if assigned the responsibility to recommend governance improvements, the FCTC will need to involve the state attorneys, public defenders, and court clerks as well as other stakeholders, including the Legislature. The focus needs to be on viewing court technology from a statewide enterprise perspective, with clearly stated goals and objectives, and reconstructing governance to facilitate the attainment of those goals and objectives.

The term of service of the FCTC expires on July 31, 2003. Although MGT assumes the term will be extended, the Legislature may nevertheless wish to consider another entity, or combination of entities, to address the governance issue, in which case the FCTC would logically have to be included as probably *the* major stakeholder.

#### **RECOMMENDATION 3.3-2:**

**Due to problems inherent in a technology funding model resulting from the bifurcation of responsibilities and funding, the state should provide state funding of the court technology infrastructure or abandon goals and opportunities feasible only through an integrated, statewide court technology system.**

At present, the Legislature's interpretation of Revision 7 to Article V would have the state assume funding responsibility for many court operations, but leave the responsibility for funding the court technology infrastructure with the counties. MGT believes that the funding model resulting from this bifurcated approach is problematic. The Legislature has indicated its interest in achieving a more effective court system from a statewide perspective, including better performance and accountability data through statewide networking of court systems. Yet, through Chapter 29.008 of the Florida Statutes, the Legislature would exclude state funding of much of the courts' computer technology. This creates a dilemma because the ability of the courts to operate at all, let alone to do so with increased effectiveness on a statewide basis, is determined by the capabilities of the information technology infrastructure.

Providing state funding of the courts' information technology infrastructure is not a trivial matter. As noted above, the annual statewide cost has been estimated to be as high as \$91 million. On the other hand, if state funding of the technology infrastructure were *not* provided, the counties would not have an incentive to provide the level of support that is required to fulfill the Legislature's objectives.

Given the state's fiscal situation, MGT is particularly aware of the heightened sensitivity to any new funding proposal. In this case, however, MGT believes that the Legislature is faced with a choice: (1) provide state funding of the court technology infrastructure, or (2) abandon goals and opportunities feasible only through an integrated, statewide court system. These goals and opportunities include:

- those specified by the Legislature in the RFP for this project including the "ultimate goal of networking statewide, so that performance and accountability data is readily available to the court system and Legislature in the future."
- improving the accuracy and timeliness of statewide reporting generally;
- improving the administration of justice throughout the state by upgrading the basic level of technology support to the courts;
- achieving statewide economies resulting from more efficient court processes; and
- facilitating generally the satisfaction of the courts' and the Legislature's future information requirements.

**RECOMMENDATION 3.3-3:**

**Develop a methodology for implementing statewide court information requirements that will ensure the cost and time required to implement the requirements are known.**

An integrated statewide judicial system can provide substantial benefits. However, there is a very substantial cost to system design and development, data collection, maintenance and use. For that reason, a methodology should be established to ensure that when a statewide information need is mandated, regardless of the source of the mandate, the costs of compliance and availability of funding are understood.

**RECOMMENDATION 3.3-4:**

**Review existing court information reporting requirements and identify and report to the Legislature any such requirements that are particularly problematic or inadequately funded. A committee similar to the Trial Court Technology Commission, composed of representatives from the clerks of court, OSCA, state attorneys, public defenders, and the Florida Department of Law Enforcement, should investigate and report deficiencies associated with reporting to the House and Senate committees responsible for judicial appropriations.**

The Legislature should be assured that its requirements for statewide judicial system information are met in a satisfactory manner; that is, that the requested data are reported completely, accurately, and in a timely manner. The Office of Program Policy Analysis and Government Accountability (OPPAGA) has highlighted the difficulties with the reporting of court-related information, noting in its November 2001 *Information Brief* that “the clerks are currently not able to provide reliable data on the total amount of state revenue generated or clerk fees withheld.” Deficiencies associated with the reporting of statewide court information should be investigated by a committee similar to the Trial Courts Technology Commission, composed of representatives from various court related entities, including the clerks of the court, the Office of the State Courts Administrator, state attorneys, public defenders, and the Florida Department of Law Enforcement. The aim of the review should be to investigate the metrics necessary to complete a more comprehensive investigation of the reporting requirements, data collection methodologies and the necessary components to be reported. Identified deficiencies should then be reported to the House and Senate committees responsible for judicial appropriations.

**RECOMMENDATION 3.3-5:**

**Establish a plan for continuously improving the efficiency and effectiveness of judicial system operations through information technology. As an interim step, statewide information reporting necessary to satisfy the needs of the Legislature, the Supreme Court, public defenders, and state attorneys should be defined. Judicial circuits, counties, and clerks should be asked to then determine how to best make the data available in the desired format.**

Improved information technology can result in more effective administration of justice as well as reduced costs. To ensure that the improvement potential is maximized, expected improvements should be identified along with plans for achieving such improvements.

In making this recommendation, MGT notes that the Judicial Information Strategic Plan developed under the auspices of the Supreme Court identifies specific improvements that can be made, and also addresses other issues contained in this chapter, including governance. MGT believes that the Court’s plan provides a good starting point, but recognizes the need to expand the scope to include all elements of the judicial system.

***The Challenges of Implementing a Statewide System.*** The potential benefits of an integrated state judicial system are significant in many regards. There are both considerable potential cost savings as well as potential meaningful benefits in the

administration of justice. At the same time, the challenges are also quite significant, with well-known risks. Common categories of risk include:

- Planning
- Involving all relevant parties
- Coordination
- Procurement
- Contracts
- Project Management
- Contract Management
- Funding
- Project Oversight
- Quality Assurance
- Reporting
- Project Governance

Because Florida does not have the luxury of starting with a clean slate regarding the development of a technologically integrated judicial system, the state needs to evaluate carefully a statewide approach. The following questions should be answered.

- How will the approach meet the needs of the judicial system and the Legislature?
- What are the costs and benefits, how were they determined, and how accurate are they?
- What is the schedule, how was it determined, and how accurate is it?
- Are projects to be implemented in phases? If so, what are the phases, and will each phase deliver solid benefits regardless of the implementation of other phases? If no, why is a phased approach not feasible?
- Who will manage projects, what are their qualifications, and what is their experience for managing similarly complex projects?
- Who will be responsible for external oversight?
- Who are the stakeholders and how are they involved?
- How will progress and issues be reported, and to whom?

The Legislature should be provided the answers to these questions when it considers approving funds and/or authorizing or mandating implementation of major statewide system development efforts.

As an interim step, statewide information reporting necessary to satisfy the needs of the Legislature, the Supreme Court, the Public Defenders, and the State Attorneys should be defined. The judicial circuits, the counties, the court clerks, and others should be asked to then determine how to best make the data available in the desired format.



Such an interim approach clearly requires appropriate state oversight, which the Legislature should assign to an appropriate organization.

It is acknowledged that this approach, which is essentially to continue current practices, will not resolve a number of issues of concern among the courts and within the Legislature. Moreover, unless the funding issue is resolved, this approach could result in noncompliance on the part of counties because of the lack of adequate funding. On the other hand, the current approach includes collaborative partnerships and working relationships whereby improvements in judicial system processes have been obtained on a multiagency basis through voluntary arrangements. This approach can be a model for achieving true statewide systems.

By stipulating state level information reporting requirements and allowing local agencies to determine how best to meet those requirements, the Legislature avoids the pitfalls associated with specifying *how* those requirements are to be met. The costs to move the state's judicial systems to uniform hardware and software would be very high, as well as problem laden. Typical problems with such a uniform approach include:

- Some systems are part of a technology hardware and software platform that serves other local needs.
- Large-scale enterprisewide efforts to mandate uniform technology typically cause procurement-related problems, because vendors that believe their share will disappear will raise the issue of the lack of adequate competition, which is an important issue in any public sector operation.

As the Legislature considers its options for ensuring the reporting of performance accountability information and other information, and for improving judicial processes generally, the Legislature may wish to consider a multipronged approach to obtaining its objectives.

- Evaluate existing systems using clear and specific criteria to determine which of the systems are worth investing funds to achieve modifications that would meet state needs.
- Offer incentive funds to counties to encourage them to modify their systems to meet state standards.
- Offer counties incentives to form consortia around a smaller set of systems so as to achieve multicounty benefits while also meeting state standards.
- Fund a basic information system for counties with little or no technology. This could be accomplished by using an existing system from another county or developing a new system.
- Approve specific systems and require counties to move to one of the approved systems by a certain date.

- Continue to leverage consensus-building entities such as the Florida Association of Court Clerks.